

LAWS OF GUYANA

WATER COMMISSIONERS ACT

CHAPTER 55:02

**Act
8 of 1886**

**Amended by
6 of 1997**

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WATER COMMISSIONERS ACT

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1929 Ed

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c. 129

WATER COMMISSIONERS ACT

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c. 235

8 of 1886

An Act to enable Commissioners appointed under any Act for regulating the Conservation or Distribution of fresh Water to make and enforce By-laws, and also to provide for the Punishment of certain Offences.

[6TH OCTOBER, 1886]

Short Title.

1. This Act may be cited as the Water Commissioners Act.

Interpretation.

2. In this Act "Commissioners" includes any person or body corporate however named or described.

MAKING AND EFFECT OF BY-LAWS

Commissioners may make by-laws.

3. Where any commissioners are appointed under any Act for regulating the conservation, supply, or distribution of fresh water, or where any commissioners are entrusted under any Act with any duty relating to the conservation, supply, or distribution of fresh water, they may make by-laws for any of the following purposes, that is to say, for—

- (a) regulating the proper distribution of the water amongst those entitled thereto;
- (b) regulating the manner in which the supply of water shall be afforded to or received by those entitled thereto;
- (c) preventing the fouling of the water in any reservoir, canals or trench under their charge;
- (d) preventing injury to any of the works under their charge;

- (e) regulating the use and the traffic over, along, or on the dams or canals under their charge; and
- (f) generally securing the proper conservation of the water under their charge, and preventing any waste thereof.

Approval and publication of by-laws.

4. (1) No by-law, and no alteration, addition, or repeal of any by-law, made by the Commissioners, shall take effect unless and until submitted to and approved by the Minister, who may allow, or disallow, or alter the same as he thinks proper.

(2) The Minister may alter or repeal any by-law previously approved.

Imposition of penalties.
[6 of 1997]

5. (1) The Commissioners may, by any by-law made under this Act, impose on offenders against the same a penalty not exceeding the sum of one hundred and fifty dollars for each offence, and in case of a continuing offence a further penalty of four thousand eight hundred and seventy-five dollars for each day after written notice of the offence from the Commissioners or any of their officers or servants.

(2) All the penalties are recoverable under the Summary Jurisdiction Acts.

Liability of proprietor of plantation in certain cases for breach of by-laws.
[6 of 1997]

6. (1) The Commissioners, in addition to section 5, may also, by any by-law made under this Act, in any case where the proprietor of a plantation might derive benefit by not complying with a by-law, direct that the penalty incurred by non-compliance therewith, whoever the actual offender may be, shall be payable by the proprietor of the plantation.

(2) No penalty so imposed shall exceed forty-eight

thousand seven hundred and fifty dollars for a first offence, or ninety-seven thousand five hundred dollars for a second or any subsequent offence, or, in case of a continuing offence, a further penalty of forty-eight thousand seven hundred and fifty dollars for each day after written notice of the offence from one of the Commissioners has been served on the manager of the plantation.

(3) The penalty is recoverable at the instance of the Commissioners by parate execution against the proprietor, without naming him.

(4) Every application for that execution shall be by motion before a judge of the High Court in its civil jurisdiction, and notice of the motion shall be served in the manner provided by law for serving a writ of summons on the owner of a plantation in cases where the process is against an owner without the names being mentioned.

(5) On the motion, the manager of the plantation and anyone interested in the plantation may appear and oppose the granting of the application.

(6) When it is proved that the penalty has been incurred, the judge hearing the motion may order that parate execution issue against the proprietor, without naming him, for the recovery of the penalty incurred.

Recovery of reduced penalty.

7. All by-laws made under this Act imposing a penalty shall be so framed as to allow of the recovery of any sum less than the full amount of the penalty.

Publication and proof of by-laws.

8. (1) All by-laws made under this Act, when settled and approved by the Minister, and every alteration thereof, shall be published in the *Gazette*.

(2) The production of the *Gazette* containing a copy of the by-laws, or any alteration thereof, purporting to be made or approved by the Minister is conclusive evidence

thereof for all purposes, and that the same have been rightly made and are in force, unless the person disputing the validity thereof can prove that any of them has been subsequently altered or repealed with the approval of the Minister.

Laying of property in legal proceedings.

9. In any legal proceedings (other than proceedings by or on behalf of the State, or of any public officer against the Commissioners), the property of any works, material, water, or thing under the charge of the Commissioners may be laid in the Commissioners.

Saving of other powers.

10. Nothing contained in the preceding sections shall be deemed to limit the powers or authority of the Commissioners given by any Act or to prevent them enforcing any right by civil process.

OFFENCES

Damaging works.
[6 of 1997]

11. Everyone who without lawful excuse wilfully damages any dam, trench, outfall, koker, or sluice is liable on summary conviction, to a fine of not less than nine hundred and seventy-five dollars and not more than forty-six thousand eight hundred dollars, and to imprisonment for a term of three months.

Throwing glass into canal.
[6 of 1997]

12. Everyone who wilfully throws any glass, or permits any glass to fall, into any canal or trench for the storage or supply of fresh water is liable on summary conviction to a fine of nine hundred and seventy-five dollars.

Fouling water in canal.
[6 of 1997]

13. Everyone who wilfully fouls the water in a canal or trench for the supply or distribution of fresh water is liable on summary conviction to a fine of nineteen thousand five hundred dollars and to imprisonment for a term of three months.

RESERVATION OF RIGHTS OF THE PUBLIC

Saving of rights
of the public,
etc.

14. (1) Where any canal or trench is constructed on land held under grant from the State and is under the charge of the Commissioners, the public, subject to any by-laws approved by the Minister, has the right of passing and re-passing along and over the banks of that canal.

(2) Subject to negative resolution of the National Assembly the Minister may declare that a bank may be used by any person or company for the purpose of laying and working a railway or tramway thereon or for any other purpose, subject to the conditions and stipulations to the Minister seeming expedient.

(3) Subject to negative resolution of the National Assembly the Minister may permit navigation and traffic on boats on a canal, subject to the by-laws from time to time approved by him.

SUBSIDIARY LEGISLATION

By-laws 24th
September, 1889

BOERASIRIE WATER COMMISSION BY-LAWS *made under section 3*

Citation.

1. These By-laws may be cited as the Boerasirie Water Commission By-laws.

Interpretation.

2. In these By-laws –

c. 50:05

“Commissioners” means the Boerasirie Commissioners appointed under the Boerasirie Creek Act;

“canal” means the canal constructed by the Commissioners under the Boerasirie Creek Act;

“proprietor of a plantation” means proprietor of a plantation liable to pay any assessment under the Boerasirie Creek Act.

Commissioners’
function.

3. The Commissioners shall cause the canal and all works connected therewith to be kept in good order.

Estimate.

4. At the half-yearly meeting of proprietors of plantations to be held in the month of January in each year, the Commissioners shall submit an estimate of the cost of maintenance of the canal and the works connected therewith, and of all salaries for the current year; and, upon such estimate being approved, the Commissioners shall apportion the same *pro rata* over the various interests as provided by section 8(g) of the Boerasirie Creek Act.

Payment of
annual
assessment.

5. The annual assessment is payable as follows, namely, one moiety on the 1st March and one moiety on the 1st September in each year; and any proprietor of a plantation who refuses or neglects to pay the assessment within one month after the date is in addition to being liable

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c. 50:05 to be proceeded against as provided in section 12 of the Boerasirie Creek Act, liable to have the water shut off from the plantation during the non-payment of the arrears.

Person not to cut through dam of canal, etc. 6. No person shall, except with the permission in writing of a Commissioner, cut or cause to be cut through the dams of the canal, or make any stop-off therein, or in any way impede the passage of the water therein, for any purpose or under any pretence whatever, under a penalty of one hundred and fifty dollars for each offence.

Manager etc. not to cut through dam of canal, etc. 7. No manager, deputy manager, overseer, engineer, superintendent, or other person of, or belonging to a plantation shall, except with the permission in writing of a Commissioner, cut, or cause to be cut, through the dams of the canal, or make any stop-off therein, or in any way impede the passage of the water therein, for any purpose, or under any pretence whatever, under a penalty of seven hundred and twenty dollars in case of a first offence, and a penalty of one thousand four hundred and forty dollars in case of a second or any subsequent offence, and, in case of a continuing offence, a further penalty, of seven hundred and twenty dollars for each day after written notice of the offence from one of the Commissioners has been served on the manager of the plantation.

Person not to open sluice. 8. Every person who opens, or causes to be opened, the sluice or koker of any plantation during the period for which the Commissioners may have thought proper to direct it to be kept shut, is liable to a penalty of one hundred and fifty dollars for each offence.

Manager etc. not to open sluice etc. 9. (1) Any manager, deputy manager, overseer, engineer, superintendent, or other person of and belonging to a plantation or village who opens or causes to be opened the sluice or koker of any plantation during the period for which the Commissioners may have thought proper to direct it to be kept shut, is liable to a penalty of seven

hundred and twenty dollars in case of a first offence, and a penalty of one thousand four hundred and forty dollars in case of a second or any subsequent offence, and, in case of a continuing offence, a further penalty, of seven hundred and twenty dollars for each day after written notice of the offence from one of the commissioners has been served on the manager of the plantation.

(2) The kokers being locked down indicate that plantations are upon time runs.

Penalties recoverable.

10. (1) The penalties imposed by by-laws 6 and 8 are recoverable under section 15 of the Act.

Bathing, polluting water of creek etc.

11. Any person who is found bathing in or otherwise polluting the water of the creek or canal, or trespassing upon, or damaging the banks of the canal, may be apprehended by any officer or other person authorised in writing by a Commissioner, and shall, on summary conviction, forfeit and pay a fine of thirty dollars.

Cattle etc. straying.

12. Any cattle, horses, mules, asses, sheep, or goats which are found straying on the banks of the canal may be impounded, and any pigs which are found on the banks of the canal may be destroyed; and in the event of any proprietor of a plantation allowing any stock belonging to the plantation to stray upon the banks of the canal, he shall be deemed to have committed an offence, and is liable to a penalty of one hundred and fifty dollars for each such offence, and such penalty is recoverable under section 5 of the Act.

Use of craft in canal.

13. No person is allowed to use any craft on the waters of the canal without permission in writing from a Commissioner; and any person who is so found without such authority may be apprehended by any officer or other person authorised in writing by a Commissioner, and shall, on summary conviction, forfeit and pay a fine of thirty

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dollars.

Dimensions of
sluices or kokers.

14. (1) The intake sluices or kokers of all the plantations entitled to water from the canal shall be of iron of the following dimensions, that is to say, 30 inches in diameter and 40 feet in length, and they shall be placed not less than five roods from the banks of the canal, with the bottoms of the said sluices or kokers at 48 G.D.

(2) Weirs shall be placed in all the intake canals of the plantations not more than five roods from the kokers, and the weirs shall be of such material as the Commissioners may direct, and the tops of the weirs shall be at + 50.5 G.D.

(3) Any such weir shall be put down within 14 days after notice in writing signed by a Commissioner has been served upon the registered representative of the plantation or village, subject to the approval of the Commissioners; such approval or disapproval, as the case may be, shall be expressed in writing and signed by the Commissioners, and shall be forwarded by them, by registered letter, to the registered representative of the plantation or village; and, in case of disapproval, the reasons for such disapproval shall be set out.

(4) If any weir is not put down or completed to the satisfaction of the Commissioners as hereinbefore required, or if any weir, after being approved of by the Commissioners, at any time sinks below the required level for such weir, or gets out of repair in any manner whereby the proprietor of the plantation might derive benefit, for the space of fourteen days after notice in writing signed by a Commissioner has been served on the manager of the plantation, then the penalty for any such infraction is a sum of seven hundred and twenty dollars in case of a first offence, and a sum of one thousand four hundred and forty dollars in case of a second or any subsequent offence, and, in case of a continuing offence there shall be a further

penalty of seven hundred and twenty dollars for each day after notice in writing of the offence from a Commissioner has been served upon the manager of the plantation, and every such penalty is recoverable under section 6 of the Act. In case of a weir being out of repair, the water may be shut off until the weir is repaired to the satisfaction of the Commissioners.

(5) The acreage of the plantations included in the Boerasirie Commission is 29,773 acres and dividing this over 168 hours, or a week, gives 5.64 hours run for every thousand acres per week of seven days, and the area of the standard koker being 707 square inches, this gives 3,988 inch hours for each 1,000 acres. The Commissioners may, in case of necessity, allow the temporary use of a koker of a smaller size than is hereinbefore mentioned, and in any such case the area of such temporary koker in square inches divided into the above inch hours will give the hours during which such temporary koker may be allowed to remain open.

Schedule.

(6) The plantations, with the times at which their respective kokers are to be opened and closed, are specified in the Schedule. Any time runs may be transferred upon a written application from the managers of both plantations being delivered to the secretary to the Commissioners 36 hours before such transfer is required.

(7) The Commissioners are hereby permitted to regulate the time runs, or to shut off the water entirely at any time, according to the level of water in the canal.

Exercise of
Commissioners
discretion.

15. In anticipation of the approach of rainy seasons when the water in the creek rises to 57 G.D., it shall be lawful for the Commissioners to remove all restrictions, and allow the participators in the scheme to draw at will for flushing, or any other purpose. But on the approach of the usual dry seasons, and when the water falls to 59 G.D. in the Main Creek, the Commissioners may order the plantations

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to be put on the time run.

Placing and use
of fines.

16. All fines recovered under these by-laws shall be placed to the credit of the account for the maintenance of the canal, and may be used, in whole or in part, for rewarding any officer or servant of the Commissioners.
