

LAWS OF GUYANA

GUARANTEE OF LOANS (PUBLIC CORPORATIONS AND
COMPANIES) ACT

CHAPTER 77:01

Act

16 of 1971

Amended by

35 of 1974

15 of 1997

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
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Note
on
Subsidiary Legislation

This Chapter contains no subsidiary legislation.

CHAPTER 77:01
GUARANTEE OF LOANS (PUBLIC CORPORATIONS AND COMPANIES) ACT
ARRANGEMENT OF SECTIONS

SECTION

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16 of 1971

AN ACT to provide for the guarantee by the Government of Guyana of loans to public Corporations and Companies in which the Government has a controlling interest and to authorise the Government to give undertakings to sources of financing under which sums payable by the Government pursuant thereto shall become chargeable on the Consolidated Fund.

[24TH AUGUST, 1971]

Short title.

1. This Act may be cited as Guarantee of Loans (Public Corporations and Companies) Act.

Interpretation.
[15 of 1977]

2. (1) In this Act—

“Corporation” means—

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- c. 19:05 (a) any corporation as defined in section 2(c) of the Public Corporations Act;
- (b) any other body corporate owned by the State or in which the controlling interest vests in the State or any agency on behalf of the State;
- c. 88:01 (c) any co-operative society registered under the Co-operative Societies Act; and
- (d) any such company incorporated in Guyana and, having regard to its importance to the national economy or capital invested in it by the Government, as may be specified by the Minister by notification in the *Gazette*, for the purposes of this Act;

“lending agency” means an international financial organisation or any bank, insurance company or other source of financing;

“ordinary share capital” means all the issued share capital by whatever name called, other than capital the holders whereof have a right to a dividend at a fixed rate, but have no other rights to share in the profits of the company.

(2) For the purposes of this Act, a borrowing by a Corporation shall be deemed to include the obligation of the Corporation to make payments to any person arising out of any contract lawfully entered into by the Corporation.

Power of
Government to
guarantee
loans by
lending
agencies to
Corporations.
[35 of 1974]

3. (1) Subject to this Act, the Government may in such manner Government and on such terms and subject to such conditions as may be agreed between it and a lending agency—

- (a) guarantee the discharge by a Corporation of its obligations under any agreement which may be entered into by the Corporation with a lending agency in respect of any borrowing by that Corporation that is authorised by the government;
- (b) assume such other obligations as may be agreed between the Government and a lending agency in relation to or pursuant to any such agreement;
- (c) undertake the repayment to a lending agency of such sums as the lending agency may have advanced to or for the benefit of the Government.

(2) A guarantee or undertaking given under this section shall be given in writing in the name of the Government and any guarantee or undertaking given under this section may be signed on behalf of the Government by the Minister or by any person authorised in writing by the Minister in that behalf.

(3) The power to give guarantees conferred by subsection (1) is in addition to any like power conferred by any other law.

Limit on
amount
outstanding
under
guarantees.

4. (1) The aggregate amount of the liability of the Government in respect of guarantees or undertakings, given under section 3 shall not at any time exceed the sum of fifty million dollars or such greater sum as may from time

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[35 of 1974] to time be specified by the resolution of the National Assembly.

(2) The Minister shall, as soon as may be after the expiration of each quarter of each year during which guarantees or undertakings may be given under section 3, lay before the National Assembly a statement of the guarantees or undertakings given under that section during that quarter, together with particulars of the purposes to which the loans guaranteed were to be applied, and shall, so long as any such guarantees or undertakings are in force, lay before the National Assembly as soon as may be after the end of each financial year an account up to that date of the total amount of such guarantees or undertakings as are in force and the total sums, if any, which have been either issued out of the Consolidated Fund under this Act or paid in or towards repayment of any money so issued.

(3) The reference in subsection (1) to the liability of the Government in respect of a guarantee or undertaking shall be construed exclusively of any liability in respect of interest on any principal moneys the payment of which is the subject of the guarantee or undertaking.

Restriction on borrowing powers of Corporation as long as guarantee outstanding.

5. So long as any guarantee or other undertaking given in exercise of the powers conferred by section 3 is in force in respect of any borrowing by a Corporation, the Corporation shall not, without the consent of the Minister, exercise any other power to borrow possessed by it except any power to borrow by way of overdraft or otherwise in the ordinary course of business for a period not exceeding twelve months.

Powers exercisable by Minister in event or prospect of

6. (1) Where in the opinion of the Minister there is reasonable cause to believe—

(a) that a Corporation is likely to fail or

default by
Corporation.

be unable to discharge any of its obligations under any agreement concluded by it with a lending agency in respect of any borrowing; and

- (b) that the Government is or may become liable to pay any sum or fulfil any obligation pursuant to any guarantee or other undertaking given by it in respect of any such obligation of the Corporation, the Minister may, notwithstanding any rule of law or agreement to the contrary, give, or authorize any other person to give such directions in writing to the Corporation as may from time to time be necessary or desirable to ensure that such arrangements are made by the Corporation as will enable it to discharge its obligations under such agreement, or under this Act, and the Corporation shall comply with such directions.

(2) Where any sum becomes payable by the Government pursuant to a guarantee or undertaking given in exercise of the powers conferred by section 3 that sum shall be charged on the Consolidated Fund and the Minister shall direct payment to issue out of the Consolidated Fund.

Corporation to
repay to
Government
sums paid
under
guarantee.

7. Where any sum is paid out of the Consolidated Fund in respect of any liability incurred by the Government under a guarantee or other undertaking given in exercise of the powers conferred by section 3 in respect of any borrowing by a Corporation, the Corporation shall repay such sum (together with interest thereon at such rate as the Minister

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may prescribe) to the Consolidated Fund in such manner and at such time as the Minister may direct.

Regulations.

8. The Minister may make regulations for the purpose of giving effect to the provisions of this Act, and in particular for prescribing anything by this Act required to be prescribed.
