

CHAPTER 75:01

GUYANA CREDIT CORPORATION ACT

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PART I

CONSTITUTION AND ADMINISTRATION

Establishment of the Guyana Credit Corporation.

3. There is hereby established for the purposes of this Act a body to be called the Guyana Credit Corporation.

Constitution of the Corporation.

4. (1) The Corporation shall consist of one official member and of such number of other members, not being less than seven, as the Minister may from time to time determine.

(2) The official member and other members of the Corporation shall be appointed by the Minister by instrument in writing from amongst persons appearing to him to be qualified by reason of their experience of, and capacity in, matters relating to agriculture, industry, trade, finance, science or administration to undertake the duties appertaining to members of the Corporation.

(3) A person shall be disqualified from being appointed or being a member of the Corporation so long as he is a member of the National Assembly.

(4) The Minister shall appoint a Chairman and a Deputy Chairman of the Corporation from among the members of the Corporation neither of whom shall be the official member.

(5) A member of the Corporation shall, subject to subsections (6) and (7), hold office for such period, not exceeding three years, as the Minister may direct in the instrument appointing such member, but such member shall be eligible for re-appointment.

(6) Any member of the Corporation other than the official member, may, by writing under his hand addressed to the Minister, resign from the Corporation.

(7) The Minister may at any time revoke the appointment of any member of the Corporation if he thinks it expedient so to do.

(8) The appointment, removal, death, departure from Guyana or resignation of any member of the Corporation shall be notified in the *Gazette*.

Remuneration of members.

5. The Corporation shall pay to each member of the Corporation, in respect of his office as such, such remuneration and allowances (if any) as the Minister responsible for finance may determine and to the Chairman and to the Deputy Chairman in respect of his office as such, such remuneration and allowances, if any (in addition to any remuneration or allowances to which he may be entitled in respect of his office as a member) as may be so determined.

6. (1) The Corporation shall appoint and employ at such remuneration and on such terms and conditions as they think fit a General Manager, a Secretary and such other officers and such servants as they deem necessary for the proper carrying out of the provisions of this Act: Appointment of General Manager, Secretary, officers and servants.

Provided that no salary in excess of the rate of four thousand eight hundred dollars *per annum* shall be assigned to any post under this subsection without the prior approval of the Minister responsible for finance.

(2) No provision shall be made for the payment of any pensions, gratuities or other like benefits to the General Manager, the Secretary, other officers, servants or to other persons by reference to their service without the prior approval of the Minister responsible for finance.

(3) Where leave of absence has been granted to the General Manager or the Secretary or any other officer of the Corporation or where the General Manager, the Secretary or any other officer of the Corporation is for any reason temporarily unable to perform his functions, the Corporation may appoint another person to act in his place.

(4) A person shall be disqualified from being appointed or being the General Manager, the Secretary or any other officer or a servant of the Corporation so long as he is a member of the National Assembly.

7. (1) The seal of the Corporation shall be kept in the custody of the Chairman or the Deputy Chairman or the Secretary of the Corporation and may be affixed to instruments pursuant to a resolution of the Corporation in the presence of the Chairman or Deputy Chairman and the Secretary. Seal of Corporation.

(2) The seal of the Corporation shall be authenticated by the signature of the Chairman, or Deputy Chairman and the Secretary.

(3) All documents, other than those required by law to be under seal made by, and all decisions of, the Corporation may be signified under the hand of the Chairman or Deputy Chairman or General Manager and the Secretary.

8. (1) The Corporation shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and time and on such days as the Corporation may determine. Procedure and meetings of the Corporation.

(2) The Chairman may at any time call a special meeting of the Corporation and shall call a special meeting within seven days

of a requisition for that purpose addressed to him by any three members of the Corporation.

(3) The Chairman, or in his absence the Deputy Chairman, and three other members of the Corporation shall form a quorum for the transaction of business at a meeting.

(4) The General Manager may attend meetings but shall not be entitled to vote.

(5) Proper minutes of each meeting shall be kept by the Secretary and shall be confirmed by the Chairman or the Deputy Chairman (as the case may be) as soon as practicable thereafter at a subsequent meeting.

(6) The Corporation may co-opt any one or more persons to attend any particular meeting of the Corporation on any matter for the purpose of assisting or advising the Corporation, but such co-opted person shall not have the right to vote.

9. (1) Every member of the Corporation, every Manager, every Secretary, and every other officer of the Corporation—

Information obtained as a member or officer of the Corporation to be secret and confidential.

(a) shall regard and deal with as secret and confidential all information, documents and matters which or knowledge of which he may obtain as a member, the General Manager, Secretary or other officer of the Corporation, as the case may be, which relates to any of the proceedings of the Corporation; and

(b) shall not make use of any documents, matters or information which or knowledge of which he may obtain as a member, General Manager, Secretary or other officer of the Corporation, as the case may be, for the benefit of himself or any other person, or otherwise than for the purposes of his duties as a member, General Manager, Secretary or other officer of the Corporation,

and shall make and subscribe before a commissioner of oaths or a justice of the peace a statutory declaration to such effect.

(2) No fee or stamp duty shall be payable or chargeable in respect of any declaration made under subsection (1).

(3) Where any member, the General Manager, Secretary or any other officer of the Corporation contravenes any of the provisions of subsection (1)(a) or (b), he shall be liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for six months.

(4) Nothing contained in this section shall be deemed to preclude the Corporation from making with the consent of an appli-

cant such enquiries as the Corporation may deem fit in connection with an application made to it by that applicant.

10. (1) Subject to this section, it shall be the duty of a member of the Corporation who is in any way, whether directly or indirectly, interested in an application to the Corporation for a loan under this Act or in a company or firm in receipt of such a loan, or in a contract or proposed contract with the Corporation, to declare the nature of his interest at a meeting of the Corporation.

Disclosure by member of Corporation of interest in transaction with Corporation, and disqualification.

(2) In the case of such application or proposed contract the declaration required by this section to be made by a member of the Corporation shall be made at the meeting of the Corporation at which the question of granting or refusing the application or entering into the contract is first taken into consideration, or if such member was not at the date of that meeting interested in the application or proposed contract at the next meeting of the Corporation held after he became so interested and in a case where such member acquires an interest in any company or firm in receipt of a loan from the Corporation or becomes interested in a contract with the Corporation after it is made, the said declaration shall be made at the first meeting of the Corporation held after such member acquires such interest or becomes so interested.

(3) For the purpose of this section, a general notice given to the other members of the Corporation by a member to the effect that he is also a member of a specified company or firm and is to be regarded as interested in any application for a loan from the Corporation or in any contract which may, after the date of the notice, be made by or with that company or firm, shall be deemed to be a sufficient declaration of interest in relation to any application or contract so made:

Provided that no such notice shall be of effect unless either it is given at a meeting of the Corporation or the member of the Corporation concerned takes reasonable steps to secure that it is brought up and read at the next meeting of the Corporation after it is given.

(4) No member of the Corporation shall sit or take part in proceedings or vote on the decision of any application to the Corporation for a loan in which he is interested, or in respect of any contract or arrangement in which he is interested, whether directly or indirectly, and if he shall vote his vote shall not be counted nor shall he be counted in the quorum present at the meeting.

(5) Any member of the Corporation who fails to comply with any of the provisions of subsections (1), (2) and (3) or contravenes any of the provisions of subsection (4) shall be liable on summary

conviction to a fine of seven hundred and fifty dollars or to imprisonment for six months.

Power of Corporation to establish branch offices or agencies.

**11.** The Corporation may establish branch offices or agencies in any part of Guyana to be managed in accordance with such rules and directions as may, from time to time, be made by the Corporation.

Power of Corporation to appoint district committees.

**12.** (1) The Corporation may sub-divide Guyana into districts for the purposes of this Act, and may, in each of the districts to be created, constitute a district committee consisting of such members as the Corporation may appoint.

(2) The Corporation may, as it thinks fit, at any time and from time to time, alter the boundaries of any district or make a new subdivision of Guyana into districts.

(3) The Corporation may as it thinks fit, revoke any appointment made by the Corporation to any district committee, and increase or reduce the number of members of any district committee.

(4) A district committee shall perform such functions as the Corporation may direct.

Execution of documents. [13 of 1955]

**13.** Any transport, mortgage, lease assignment, transfer, agreement, or other document requiring to be executed by the Corporation, or any cheque, bill of exchange or order for the payment of money requiring to be executed by the Corporation shall be deemed to be duly executed if signed by a person or persons specially or generally authorised by resolution of the Corporation so to sign.

## PART II

### GENERAL FUNCTIONS AND DUTIES OF THE CORPORATION

General functions and duties of the Corporation.

**14.** (1) It shall be the duty of the Corporation to promote the economic development of Guyana and with that object to provide financial credits where necessary and desirable and to stimulate and facilitate private investment in Guyana by local and external capital.

(2) The Corporation shall in pursuance of the discharge of its duties provide credits for agriculture, industry, rural and urban housing, and utilities both of a public and private nature and other undertakings of a like nature.

(3) Without prejudice to the generality of subsection (2), the functions of the Corporation in the discharge of its duties shall be to—

(a) take over from time to time any credit activities of the Government including outstanding loans to private enterprises but excluding advances of salaries to public officers and advances to local authorities constituted under the Local Government Act; c. 28:02

(b) provide agricultural and industrial credits to Co-operative Societies registered under the Co-operative Societies Act; c. 88:01

(c) provide credits for land settlement schemes;

(d) provide such credits as are necessary for agricultural and industrial undertakings other than those engaged in the manufacture of sugar;

(e) make loans to individuals, and make loans to, and purchase shares or debentures of, companies engaged in new or existing industries;

(f) promote the introduction of private external capital for investment in agriculture, industry and mining;

(g) promote useful innovations in agriculture and industry;

(h) provide credits for private or mixed private and public investment in rural and urban housing.

(4) The Corporation shall have power for the purpose of the discharge of its duties—

(a) to carry on all activities the carrying on whereof appears to the Corporation to be requisite, advantageous or convenient for or in connection with the discharge of its said duties, including the processing and marketing of products and research activities;

(b) to promote the carrying on of any such activities by other bodies or persons, and for that purpose to establish or expand, or promote the establishment or expansion of, other bodies to carry on any such activities either under the control or partial control of the Corporation or independently, and to give assistance to such bodies or to other bodies or persons appearing to the Corporation to have facilities for the carrying on of any such activities including financial assistance by the taking up of share or loan capital, or by loan or otherwise.

(5) Where an officer in the public service who holds a pensionable office within the meaning of the Pensions Act is appointed to be an officer of the Corporation, the Corporation shall pay to the Government an annual pension contribution at such rate per cent of the officer's annual emoluments from the Corporation as may, from time to time, be approved by the Minister responsible for finance, c. 27:02

and the service of such person while in the employment of the Corporation shall be deemed to be service under the Government and shall be subject to the Pensions Act.

General powers of Corporation to transact business.

**15.** The Corporation shall have power to do any thing and to enter into any transaction (whether or not involving expenditure, borrowing, granting of loans or investment of money in accordance with this Act in that behalf, the acquisition of any property or rights, or, subject to section 19, the disposal of any property or rights) which in its opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.

Power to appoint committees.

**16.** (1) The Corporation may appoint a committee of the Corporation to examine and report to the Corporation on any matter whatsoever arising out of or connected with any of its powers and duties under this Act.

(2) Any such committee shall consist of at least two members of the Corporation together with such other persons, whether members of the Corporation or not, whose assistance or advice the Corporation may desire.

(3) Where persons, not being members of the Corporation, are members of a committee appointed under this section, or where any person is co-opted under section 8(6), the Corporation may by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Corporation.

(4) The Corporation may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Corporation may think fit.

Power to delegate.

**17.** Subject to this Act, the Corporation may delegate to any member or committee of the Corporation the power and authority to carry out on its behalf such duties as the Corporation may determine.

Appointment of valuers and inspectors.

**18.** (1) The Corporation may from time to time appoint and employ valuers and inspectors at such remuneration and on such terms as the Corporation may determine and may in its discretion remove any person so appointed. The Corporation may cause notice of every such appointment and removal to be published in the *Gazette*.

(2) The fee of any valuer or inspector shall be fixed by the Corporation and shall be payable by the applicant for a loan before the valuation is made.



(3) Any valuer or inspector appointed under this section may, at all reasonable times enter upon any lands or premises in respect of which a loan has been made under this Act and may value or inspect the same; and any person obstructing or causing to be obstructed any valuer or inspector in making such valuation or inspection, whether by force or by threats or in any other manner shall be liable on summary conviction to a fine of four hundred dollars or to imprisonment for six months.

19. (1) It shall be the duty of the Corporation so to exercise and perform its functions as to secure that its revenues are not less than sufficient to meet all sums properly chargeable to its revenue account taking one year with another.

Balancing of revenue account, and surplus revenue.

(2) Any excess of the revenues of the Corporation for any financial year thereof over the sums properly chargeable to its revenue account for that year shall be applied by the Corporation for such purposes as it may determine with the approval of the Minister responsible for finance.

### PART III

#### FINANCIAL PROVISIONS

20. (1) The funds and resources of the Corporation shall consist of—

Funds and resources of the Corporation.

(a) such sums as may be provided annually for the purposes of the Corporation in estimates of revenue and expenditure of the Government;

(b) such sums as may be allocated from time to time to the Corporation from the proceeds of loans raised by the Government;

(c) such sums as may from time to time be allocated to the Corporation from grants or loans made to the Government of Guyana by the Government of the United Kingdom;

(d) all sums from time to time received by or falling due to the Corporation in respect of the repayment of any loan made by the Corporation and the interest payable in respect of any such loan;

(e) moneys earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Corporation;

(f) any property, mortgages, debentures or investments acquired by or vested in the Corporation;

(g) sums borrowed by the Corporation for the purpose of meeting any of its obligations or discharging any of its functions;

(h) all other sums or property which may in any manner become payable to or vested in the Corporation in respect of any matter incidental to its powers and duties.

(2) Interest shall be paid by the Corporation to the Government at such rate as may be determined by the Minister responsible for finance on any amount specified in subsection (1)(a) or (c).

(3) The annual charges on any amount which may be allocated to the Corporation from the proceeds of loans raised by the Government under subsection (1)(b) shall be met by the Corporation:

Provided that all or any part of such charges may be met from moneys provided by Parliament.

Borrowing powers.

**21.** (1) Subject to subsection (2), the Corporation may borrow sums required by the Corporation for meeting any of its obligations or discharging any of its functions.

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister responsible for finance, as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected. An approval given in any respect for the purposes of this subsection may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Investments.

**22.** Moneys standing to the credit of the Corporation may from time to time be invested in securities approved either generally or specifically by the Minister responsible for finance, and the Corporation may, from time to time, with the like approval sell any or all of such securities.

Power of Corporation to make loans.

**23.** Subject to such conditions as it may deem fit to impose in particular cases, the Corporation may, out of its funds and resources, make loans in accordance with the provisions of this Act in that behalf, in the execution of its duty or in the discharge of its functions under section 14.

Other powers of expenditure.

**24.** In addition to the power conferred by section 23, the Corporation may from its funds and resources—

(a) pay any expenses lawfully incurred by the Corporation including survey, legal and other fees and costs;

(b) pay any other expense, cost, or expenditure properly

incurred or accepted by the Corporation in pursuance of its purpose under this Act;

(c) (i) purchase plant, <sup>f</sup>equipment, stores and any other materials ;

(ii) acquire land ;

(iii) erect buildings ;

(iv) carry out any other works and undertakings, in the execution of its duty or in the discharge of its functions under section 14, in contemplation of loans to be made for those purposes under section 23, so, however, that any sums expended by the Corporation under this paragraph shall be set off against the loans in contemplation of which they were expended upon the actual making of such loans.

**25.** In making loans under this Act the Corporation may charge such rate of interest as it may deem fit in any particular case.

Interest on loans made by the Corporation.

**26.** Subject to sections 27, 28 and section 52(3) every loan shall be repaid to the Corporation in accordance with the terms and conditions under which such loan was made and the moneys so paid shall thereupon be taken into the accounts of the Corporation.

Repayment of loans made by the Corporation.

**27.** The Corporation may—

(a) postpone the payment of any sum due for principal or interest to them in respect of a loan made by the Corporation upon such terms and conditions for the carrying out of the purposes for which such loan was made and for the ultimate repayment of such principal or payment of such interest as it may deem necessary;

Suspension of payment of principal and interest and power to extend time, compound or release.

(b) from time to time extend the period for the repayment of any loan, or compound or release any loan or any part thereof subject to such terms and conditions as it may deem fit.

**28.** The Corporation may at any time accept payment of the whole or any part of the amount representing the principal of a loan and interest thereon, before the time when such payment is due, upon such terms and conditions as it may think fit.

Payment of loan before due date.

**29.** (1) When any loan has been made for the cultivation of crops and the expenses of reaping and making merchantable such crops, all the crops and produce reaped or gathered from the land shall, until such advance has been repaid, be dealt with and disposed of as the Corporation may direct, and, until so disposed of, shall be held by the person obtaining the loan in trust for the Corporation. Any

Power of Corporation to dispose of crops.

(c) the borrower has become insolvent or has been sentenced to a term of imprisonment without the option of the payment of a fine or has assigned his estate for the benefit of creditors; or

(d) there has been a breach or non-observance of any condition attached to the loan; or

(e) in the opinion of the Corporation, the sums already advanced were not applied to the purposes for which the loan was made within reasonable time,

the Corporation, without prejudice to any other remedy, may refuse to advance any portion of the loan still outstanding.

Misapplication of loan secured by mortgage or otherwise.

35. (1) No loan or part thereof made under this Act shall be applied otherwise than for such purposes as may be authorised by the Corporation under this Act.

(2) If any loan made under this Act or any part of such loan has been misapplied the Corporation may—

(a) where such loan has been secured by mortgage, by notice in writing addressed to the mortgagor, recall the said loan or any part thereof and may require the loan or that part together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised;

(b) where such loan has been secured otherwise than by way of mortgage, by notice addressed to the borrower, request the loan or any part thereof together with any interest due on such loan or part thereof on the date of the notice to be repaid on a date to be specified in the notice and in default of payment on such specified date any security given for the purpose of the loan may thereupon be realised.

(3) The provisions of subsection (2) shall be in addition to any other proceedings under any Act.

Enforcement of securities.

36. Where any property mortgaged as security for a loan under this Act is sold for the purpose of the enforcement of the security the Corporation may buy such property and may either manage and hold such property or sell or otherwise dispose of it as the Corporation may deem fit.

## PART IV

## MISCELLANEOUS

37. Where a loan is made by the Corporation on the security of a mortgage of any property, whether with or without any other security, the property, from and after the date of the mortgage, shall be charged with the payment of such loan and interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, to every other debt, mortgage or charge whatsoever affecting the property, except any statutory claim or any loan due to any creditor which has been made in good faith before the loan made by the Corporation and which has been secured by a duly registered mortgage of the property executed to a person who is entitled as a *bona fide* creditor to the repayment thereof with interest.

Charge on property and priority of loan.

38. (1) Any loan not exceeding nine hundred and sixty dollars made by the Corporation, together with interest that may have accrued thereon, shall constitute a preferent charge on all movable and immovable property of a borrower, or any other person who becomes a surety for the repayment of such loan over and above all claims of whatever nature, not being statutory claims or claims secured under registered encumbrances existing before the loan made by the Corporation and the same preference shall apply if proceedings in insolvency are instituted against the borrower.

Loans by Corporation to be preferent charges against borrower's property in certain circumstances.

(2) In any case where any movable or immovable property of a borrower or a surety is sold by the Official Receiver, Registrar of Deeds, or any magistrate's clerk such vendor shall, after paying all expenses of the sale and all claims, rates and taxes due, deduct the amount of the loan due to the Corporation, together with any interest accrued thereon to the date of the sale and pay it to the Corporation:

Provided that—

(a) the obligation imposed by this section on the Official Receiver and magistrate's clerk shall not in any case arise unless the Corporation, on or before the date of the sale, gives notice in writing to the Official Receiver or the magistrate's clerk, as the case may be, of the existence of unpaid loans, and unless within seven days after the sale the Corporation gives further notice in writing to the Official Receiver, or magistrate's clerk, as the case may be, of the amount thereof; and

(b) the obligation imposed by this section on the Registrar of Deeds shall only arise in sales in execution for the purpose of enforcing payment of a statutory claim or for the purpose of enforcing payment of a judgement debt of a judgement creditor other than the holder of a statutory claim or a regis-

- Schedule.  
Part II.  
c. 80:01.
- (2) The fees to be taken by the Registrar of Deeds for filing an instrument charging movable property in accordance with this Act shall be those set out at Part II of the First Schedule to this Act, and notwithstanding, anything in the Tax Act or in any other law contained, the stamp duty payable on every such instrument shall be that set out in that part of the said Act.
- Liability of Corporation for Income Tax.  
Accounts and audits.
- 51.** Nothing in this Act shall exempt the Corporation from liability for Income Tax.
- 52.** (1) The Corporation shall keep accounts of its transactions to the satisfaction of the Minister and such accounts shall be audited annually by an auditor appointed by the Minister.
- (2) The members, the General Manager, the Secretary, the other officers and servants of the Corporation shall grant to the auditor appointed to audit the accounts of the Corporation under subsection (1) access to all books, documents, cash and securities of the Corporation and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Corporation.
- (3) The Corporation may write off bad debts.
- Report.  
[13 of 1955]
- 53.** (1) The Corporation shall not later than six months from the 30th June in each year (commencing from the 30th June, 1955) submit to the Minister a report containing --
- (a) an account of its transactions throughout the preceding period of twelve months ending on the 30th June in such year in such details as the Minister may direct; and
- (b) a statement of the accounts of the Corporation audited in accordance with the provisions of section 52.
- (2) A copy of the report together with a copy of the auditor's report shall be printed and laid on the table of the National Assembly and published in the *Gazette*.
- Powers of Minister.
- 54.** The Minister may, after consultation with the Chairman, give to the Corporation directions of a general character as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to him to concern the public interest and the Corporation shall give effect to any such directions.
- Transfer of assets and liabilities.  
16 of 1944.
- 55.** (1) All lands and property of whatsoever nature vested in the local credit banks shall be and are hereby transferred to and shall vest in the Corporation as part of the assets of the Corporation established under this Act without any conveyance, transfer or other formality.

(2) Every loan made under the Co-operative Credit Banks Ordinance, by the local credit banks, together with any interest thereon, and still due and owing on the date of coming into operation of this Act shall be deemed to have been made with the authority of the Corporation and all promissory notes, bills of sale, charges and instruments of whatsoever nature for securing the repayment of any such loan to the local credit banks shall be deemed to have been made in favour of the Corporation which is hereby substituted without any other formality for the local credit banks in every deed and every mortgage or charge and other document evidencing any such loan for securing its repayment and all the rights, powers, privileges and authorities vested in or exercisable by the local credit banks in connection with any such loan are hereby transferred to and shall be exercisable by the Corporation. 16 of 1944

(3) All the benefits of any policies of insurance made by the local credit banks or by borrowers therefrom under the Co-operative Credit Banks Ordinance, either as collateral security or in respect of buildings and machinery secured by mortgage and every insurance assigned in favour of the local credit banks by borrowers shall be deemed to have been assigned to the Corporation and the policies concerned and all benefits accruing hereunder shall subsist and have effect accordingly without any notice or other formality whatsoever.

(4) All loans made under the Rice Growers Loans Ordinance, and the Co-operative Credit Banks (Special Provisions) Ordinance, and still due and owing on the date of coming into operation of this Act shall be deemed to have been made with the authority of the Corporation and all the rights, powers, privileges and authorities vested in or exercisable by the local credit banks in connection with any such loans are hereby transferred and assigned to and shall become exercisable by the Corporation: 1953 Ed.  
c. 155  
22 of 1948

Provided that on the coming into operation of this Act the Corporation shall be charged with and assume responsibility of and liability for all the amounts loaned under the Ordinances hereinbefore mentioned but shall not be liable to Government for any such amounts as are irrecoverable.

(5) Where any local credit bank established has an account or accounts with any commercial bank in Guyana the said account or accounts shall, with effect from the commencement of this Act, be transferred to the name of the Corporation and any monies standing to the credit of any such local credit bank shall, with effect from the date aforesaid vest in the Corporation. Bank  
accounts of  
former Banks  
to vest in  
Corporation.

(6) Subject to section 55 (1), all the liabilities and obligations of the local credit banks immediately prior to the coming into operation of this Act are hereby transferred and assigned to the

s. 50

FIRST SCHEDULE

FEEs

PART I

(FEES TO BE CHARGED IN RESPECT OF MORTGAGES EXECUTED BY THE CORPORATION AND A BORROWER THEREFROM)

c. 5:01  
Sub. Leg.

1. For preparing advertisement of mortgage and for three publications thereof, for examination of title and certificate under rule 9 of the Deeds Registry Rules, for preparing gross for attending on execution, completion and registration, on a loan—

| <i>Exceeding</i> | <i>Not Exceeding</i> | <i>Fee</i> |
|------------------|----------------------|------------|
| —                | \$1,000              | \$5.00     |
| \$1,000          | \$5,000              | \$7.50     |
| \$5,000          | \$10,000             | \$10.00    |
| \$10,000         | —                    | \$15.00    |

2. For cancellation of mortgage and for certificate under rule 9 of the Deeds Registry Rules, 1920, an inclusive fee of ... .. \$1.00

3. For original certificate as to title of judgment debtor to property proposed to be levied on and as to encumbrances thereon, including searches, in respect of any number of parcels of land, an inclusive fee of ... .. \$1.00

PART II

(FEES AND STAMP DUTY PAYABLE ON INSTRUMENT)

1. Filing every instrument of charge with the Registrar of Deeds appointed under the Deeds Registry Act ... .. \$1.00

2. Issuing certified copy of every instrument of charge for the use of the Corporation ... .. \$ .12

3. Stamp duty on every instrument securing repayment of a loan \$ .25

s. 30

SECOND SCHEDULE

PROVISIONS APPLICABLE TO CHARGE UNDER SECTION 30 OF THIS ACT

1. A charge shall, so long as it continues in force, confer the following rights and impose the following obligations, on the Corporation:

Rights conferred and obligations imposed by a charge on the Corporation.

(a) a right to take possession of any of the property subject to the charge upon the happening of any of the following events, that is to say—

(i) if the borrower shall fail to pay the Corporation any money which shall for the time being be owing under the charge within four days after the same or any instalment thereof shall become due; or



- (ii) if the borrower shall fail to discharge any of the obligations imposed upon him by any provision of this Schedule; or
  - (iii) if the borrower shall become insolvent or make any arrangement or composition with his creditors; or
  - (iv) if any distress or execution be issued or levied against or upon any of the property of the borrower; or
  - (v) the death of the borrower; or
  - (vi) if the borrower does any act prohibited by this Act;
- (b) where possession of any property has been so taken, a right, after an interval of five clear days or such less time as may be allowed by the instrument, to sell the property either at auction or, if the instrument so provides, by private treaty, and either for a lump sum payment or payment by instalments;
- (c) an obligation, in the event of such power of sale being exercised, to apply the proceeds of sale in or towards the discharge of the moneys and liabilities secured by the discharge, and the cost of seizure and sale, and to pay the surplus (if any) of the proceeds to the borrower.

2. A charge shall, so long as it continues in force, impose on the borrower the following obligations:

- (a) if required by the Corporation to insure and keep insured, so long as the charge continues in force, the property subject to the charge for a sum of money not less than the value of the said property and to assign the policy of insurance to the Corporation;
- (b) to keep in good and substantial repair and condition the buildings, erections, plant, machinery and other property and equipment subject to the charge;
- (c) not to sell or again encumber or charge any property subject to the charge, so long as the charge continues;
- (d) to pay punctually as the same shall become due and payable any land rent, rate or tax payable by him in respect of the land on which the property stands, and upon demand in writing by the Corporation to produce his last receipts for such rent, rate or tax;
- (e) not to have execution issued against his goods under any judgment at law;
- (f) not to remove, dismantle or in any way alter any buildings, erections, plant, machinery, equipment or other property subject to the charge without the prior consent in writing of the Corporation.

3. Every person who sells any property subject to the charge shall be liable on summary conviction to a fine of seven hundred and fifty dollars or to imprisonment for six months.

Obligations imposed by a charge on a borrower.

Penalty for sale of security.

Charge not to be defeated by sale, etc. of property subject to it.

4. A charge created under this Act shall not be liable to be defeated by any sale of, or by a subsequent charge of any nature created upon, the property specified in the instrument creating it and, upon the borrower committing an act of insolvency, the Corporation shall be at liberty to take possession of the property subject to the charge and sell the same in accordance with paragraph 1 (b).

Charge not to be affected by Bills of Sale Act. c. 90:12.

5. A charge created under this Act shall have effect notwithstanding anything contained in the Bills of Sale Act, and an instrument made under this Act shall not be deemed to be a bill of sale within the meaning of that Act.

Property charged not divisible among creditors in insolvency.

6. So long as a charge created under this Act continues in force, property subject to the charge shall not be property divisible amongst the borrower's creditors in case of his insolvency as being at the commencement of the insolvency in the possession, order or disposition of the insolvent in his trade or business by the consent and permission of the Corporation, except that any surplus after the proceeds of sale of such property have been applied in or towards the discharge of the moneys and liabilities secured by the charge shall be payable by the Corporation to the borrower's assignee in insolvency.

Mode of executing instrument creating charge.

7. Every instrument creating a charge under this Act shall be signed by the borrower and attested by two witnesses, if the borrower can read and write the English language, and in case of a borrower who cannot read and write the English language, the instrument shall be made by affixing the borrower's mark thereto in the presence of two witnesses or a magistrate, a justice of the peace or a police officer who shall attest the same after reading over and explaining the contents thereof to the borrower.

Filing of instrument in Deeds Registry. c. 5:01

8. The instrument to create a charge shall be signed also by an officer duly authorised by the Corporation and shall be filed by the Corporation with the Registrar of Deeds appointed under the Deeds Registry Act and the charge shall take effect as from the moment when it is so filed.

Registrar to file instrument on certificate of witness, etc.

9. The instrument shall be accepted and filed by the Registrar of Deeds upon a certificate thereon by one of the witnesses to the signature of the borrower, or by the person or one of the persons in whose presence the borrower made his mark, to the effect that he knows the borrower and that the instrument was read over and explained by him to the borrower who appeared perfectly to understand the same and signed it or made his mark thereto.

Penalty for false certificate.

10. Every person who makes a false certificate for the purposes of the last preceding paragraph shall be liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for twelve months.

Penalty for fraudulent offer of security.

11. (1) No person shall offer to the Corporation as security for a loan applied for under this Act any property which is not his own or which is already the subject of a charge created otherwise than in accordance with this Act, and every person shall on application for a loan disclose to the Corporation to which he applies for such loan the existence of any charge on the property offered as such security.

(2) Every person who contravenes this provision shall be liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for twelve months.

12. An instrument to create a charge under this Act shall, subject to paragraph 13, be in the form and terms set out in the Third Schedule to this Act and may be made with such other lawful terms and conditions as the parties may think fit.

Form of instrument of charge.

13. A copy of the foregoing provisions of this Schedule shall be printed on every instrument of charge created under section 30 of this Act.

Notice of provisions of this Schedule to form part of instrument of charge.

Sec. Sch. para. 12.

THIRD SCHEDULE

INSTRUMENT CREATING CHARGE

THIS INSTRUMENT is made the .....day of ..... 19..... Between ..... of ..... (hereinafter called the borrower) of the one part and ..... of ..... (hereinafter called the Corporation) of the other part:

1. In consideration of the sum of ..... dollars now advanced to the borrower by the Corporation, the borrower hereby charges all the movable property particulars whereof are hereinafter set forth with the payment to the Corporation of the said sum of ..... dollars together with interest upon the said sum of ..... dollars and the costs of realisation and enforcement of this security.

2. The loan secured by this charge and the interest thereon shall be repayable as follows:—

(Here fill in terms of repayment)

DESCRIPTION OF PROPERTY SUBJECT TO THIS CHARGE

(Here enumerate and describe so as to identify the movable property charged).

IN WITNESS WHEREOF the parties have signed this instrument at ..... in the County of ..... in Guyana in the presence of the following witnesses:

..... Borrower for and on behalf of the Guyana Credit Corporation.

Witnesses to the signature or mark of borrower:

- 1. .... 2. ....