

LAWS OF GUYANA

GUYANA GOLD BOARD ACT

CHAPTER 66:01

Act

12 of 1981

Amended by

2 of 1987

5 of 1994

17 of 2018

CHAPTER 66:01
GUYANA GOLD BOARD
ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE

SECOND SCHEDULE

Short title	1. This Act may be cited as the Guyana Gold Board Act.
Interpretation [5 of 1994]	2. In this Act – “Board means the Board established by section; “claim” has the meaning assigned to it by the Mining Act; “gold means raw gold, and includes unrefined gold amalgam, slimes and scrapings containing gold, and smelted gold that is not manufactured into any article of commerce; “producer” includes— (a) any holder or licensees of a claim; (b) any holder of a prospecting licensee who obtained gold during prospecting operations; or (c) any tributor who has lawfully obtained gold from a claim on which he is working under a contract whereby all or part of any gold won by him becomes his property.
Establishment of the Board. First Schedule	3. There is hereby established the Guyana Gold Board which shall be a body corporate and the provisions of the First Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.
Functions of the Board	4. It shall be the function of the Board — (a) to carry on the business of trading in gold;

- (b) to secure at all times an adequate supply of gold and to ensure its equitable distribution in Guyana at fair prices;
- (c) subject to this Act, to purchase all gold produced in Guyana;
- (d) subject to this Act, to sell all gold in Guyana and to sell gold outside of Guyana;
- (e) to engage in other related commercial or industrial activities.

Fixing the price
of gold

5. The Board shall, from time to time, with the approval of the Minister, by notice in the Gazette, fix the price at which the Board shall purchase or sell gold in Guyana.

Producers to sell
gold to the
Board

[5 of 1994]

6. (1) Every producer who possesses gold, won or obtained during operations as a producer, before the date of coming into operation of the Guyana Gold Board (Amendment) Act, shall sell such gold to the Board or to any agent authorised in writing by the Board in that behalf within twenty-eight days of the said date.

(2) Every producer who wins or obtains gold during operations as a producer shall, within twenty-eight days after winning or obtaining such gold and within twenty-four hours of conveying such gold to Georgetown or any other place determined by the Minister by notice in the Gazette, or such longer period as the Board may allow, sell such gold to the Board or to any agent authorised in writing by the Board in that behalf;

Provided that if the office of the Board is closed when the producer brings such gold to Georgetown or other place, the

producer shall sell such gold to the Board on the first day following when the office of the Board is open:

Provided further that where an application is made to the Board by a producer in the manner determined by the Board, the Board may authorise that producer to retain such quantity of gold as it deems fit for his personal use and not for trade.

Other persons in possession of gold.

[5 of 1994]

7. (1) Every person, not being a producer, who has gold in his possession shall, within twenty-eight days after the coming into operation of this Act sell such gold to the Board or to any agent authorised in writing by the Board in that behalf.

(2) It shall be unlawful for any person, not being a producer, to have any quantity of gold in his possession.

(3) Every person, not being a producer, who has gold any quantity of gold in his possession on the date of the coming into operation of the Guyana Gold Board (Amendment) Act 1994 shall, within twenty-eight days of the said date, sell such gold to the Board or to any agent authorised in writing by the Board in that behalf.

Provided that this section shall not apply to any person who —

- (a) is lawfully in possession of gold as the holder of a goldsmith's licence under section 59 of the Tax Act or as a duly registered dentist under any law for the time being in force in Guyana; or
- (b) is in possession of gold not obtained in Guyana and who in transit in Guyana, the onus

c. 80:01

of proof thereof being on the persons in possession of such gold.

Gold to be sold
to and
purchased from
the Board.

8. No person shall sell any gold to, or purchase any gold from, any person other than the Board or to any agent authorised in writing by the Board or export any gold.

Exemptions.
[5 of 1994]

9. (1) Notwithstanding the provisions of section 7 and 8, where application is made to the Board by any person in the prescribed manner the Board may authorise that person that person to have in his possession or to sell or export such quantity of gold as the Board may allow subject to such conditions as the Board may think fit to impose.

c. 65:01
c. 80:01

(2) Nothing in this Act shall be construed as prohibiting any transaction in a mining district within the meaning of the Mining Act whereby a person who is duly authorised under the Tax Act to sell, barter or expose for sale goods at any place in the mining district (hereinafter in this section referred to as “the licensee”) advances money or supplies goods on credit to a miner in consideration of payment being made therefor with gold won or obtained in the course of prospecting for, exploiting and processing, gold and precious:

Provided that the licensee shall —

- (a) within ten days of receipt thereof inform the Board of such receipt, and
- (b) on demand sell all gold so received to the Board at price fixed under section 5.

(3) Every transaction mentioned in subsection (2) shall be recorded by the licensee in a book kept by him for that purpose stating the amount of money advanced or the description and the amount of the goods supplied and the costs thereof, and the amount of gold received by him as payment therefor.

(4) The book required to be kept by the licensee pursuant to subsection (3) shall be produced for inspection to any officer of the Board or to any other person authorised by the Board in that behalf.

(5) Every officer of the Board or any other person authorised for the purposes of subsection (4) shall, if required to do so by the licensee, produce evidence of his appointment or authority before exercising the powers conferred by subsection (4).

(6) In this section —

“miner” means any person who prospects for, locates claims for, exploits and processes gold and precious stones.

Fit and proper
criteria
c. 17 of 2018

9A. (1) Upon the acceptance of an application to possess, sell or export gold, the Board shall conduct an investigation and make inquiries as it deems necessary to determine whether the applicant is fit and proper to possess, sell or export gold under the Act, and in conducting the investigation, the Board shall have regard to-

(a) the honesty, integrity and reputation of the applicant, partner, shareholder, director, beneficial owner of a significant or controlling interest or office holder of the applicant;

- (b) the competence and capability of the applicant;
- (c) the financial soundness and financial capability of the applicant;
- (d) the background of the applicant; and
- (e) any other matters as the Board considers necessary.

(2) In assessing the criteria in subsection 1 (a) to (e), the Board may take into account whether the applicant-

- (a) has been the subject of any proceedings of a disciplinary or criminal nature or has been notified of any potential proceedings or any investigation which might lead to these proceedings, under any law in any jurisdiction;
- (b) has been convicted of any offence including money laundering, terrorist financing or bankruptcy, or is being subject to any pending proceedings which may lead to such conviction, under any law in any jurisdiction;
- (c) has had any judgment in particular, that is associated with a finding of fraud, misrepresentation or dishonesty, entered against the relevant person in any civil proceedings or is a party to any pending proceedings which may lead to such judgement, under any law in any jurisdiction;
- (d) has accepted civil liability for fraud or misrepresentation under any law in any jurisdiction; or
- (e) has engaged in or been associated with any business practices or otherwise conducted himself or herself in

such a way as to cast doubt on his or her competence or soundness of judgment.

(3) The criteria in subsection 1 (a) to (e) shall be evaluated by the Board as often as necessary or whenever there is a change in ownership, management, or control of the company.

Authority to
purchase gold
[5 of 1994]
c. 80:01

10.(1) Notwithstanding the provisions of section 7 and 8 any person who is duly authorised under the Tax Act to sell, barter or expose for sale goods at any place in a mining district (hereinafter in this section referred to as the 'licensee') is hereby authorised by the Board to purchase gold:

Provided that —

- (a) within fourteen days of the purchase of such gold the licensee shall inform the Board of such purchase; and
- (b) on demand sell all gold in his possession to the Board at price fixed under section 5.

(2) Every transaction mentioned in subsection (1) shall be recorded by the licensee in a book kept by him for that purpose stating the amount of gold purchased or sold by him.

(3) The book required to be kept by the licensee pursuant to subsection (2) shall be produced for inspection to any officer of the Board or to any other person authorised by the Board in that behalf.

(4) Every officer of the Board or any other person authorised for the purposes of subsection (3) shall, if required to do so by the

licensee, produce evidence of his appointment or authority before exercising the powers conferred by subsection (3).

Disclosure of
interest by
members of
Board

11. (1) Any member of the Board whose interest is likely to be affected whether directly or indirectly by a decision of the Board on any matter whatsoever, shall disclose the nature of the interest at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under subsection (1) shall be recorded in the minutes of the Board recorded in the minutes of the Board, and after the disclosure, the member of the Board making the disclosure shall, unless the Board otherwise directs, not be present or take part in the deliberation or vote at any meeting during the time when such matter is being decided by the Board.

(3) For the purposes of this section, where the interest of parents, spouse or children of any member of the Board is likely to be affected directly or indirectly by a decision of the Board on any matter, such interest shall be deemed to be the interest of that member.

(4) The Minister may revoke the appointment of any member who contravenes or fails to comply with the provisions of this section.

Employment of
officers and
other employees
of the Board.

12. (1) The Board may, with the approval of the Minister, appoint a General Manager, a Secretary and such other officers and other employees at such remuneration and on such other terms and conditions as the Board, with the approval of the Minister, may determine.

(2) The Board may, at any time, retain the services of

experts and other professional persons and may pay such remuneration in respect thereof as the Board, with the approval of the Minister, may determine.

c. 27:02

(3) Where a public officer is seconded or temporarily transferred from a pensionable office within the meaning of the Pensions Act to an office with the Board, section 5 of that Act shall apply to him as if his service with the Board were service in a public office.

(4) Where a public officer is appointed to an office with the Board, his service with the Board shall be other public service within the meaning of, and for the purpose of such provisions applicable in relation thereto as are contained in the Pensions Act (including the Pensions Regulations 1957).

c. 39:05

(5) Where a teacher who has done qualifying service within the meaning of the Teachers Pensions Act is, with the approval of the appropriate authority—

(a) seconded or temporarily transferred from his office as a teacher to an office the power of appointment to which is vested by this Act in the Board, section 5 of the Pensions Act (as applied to a teacher by section 7C of the Teachers' Pensions Act) shall apply to him;

(b) transferred from his office as a teacher to a substantive appointment in an office the power of appointment to which is vested by this Act in the Board, his service with the Board shall be treated as if it were other public service within the meaning of, and for the purposes of such provisions applicable in relation thereto as are contained in, the Pensions Act (including

the Pensions Regulations 1957) and as if the teacher were an officer to whom the Pensions Act applies.

(6) In this section, “appropriate authority” means the person or authority vested by law with power to appoint the officer to the pensionable office held by him (and to which the Pensions Act applies) or to appoint the teacher to the office held by him as a teacher, as the case may be.

Fund of the
Board

13. (1) The Board shall maintain a fund into which shall be paid all such monies as may, from time to time, be appropriated for its purpose by Parliament and such other monies as may lawfully be paid to the Board, and out of the fund shall be paid all expenses incurred by the Board in carrying out its functions under this Act and all other liabilities properly incurred by the Board.

(2) The Board shall manage, administer and keep proper accounts of the fund

Borrowing
powers of the
Board

14. The Board may, with the approval of the Minister responsible for finance, borrow sums required by the Board for meeting any of its obligations or discharging any of its functions.

Investments

15. Monies standing to the credit of the Board may, from time to time be invested in securities approved either generally or specifically by the Minister, and the Board may from time to time with the like approval sell all or any of such securities.

Audit and
accounts of the
Board
[6 of 1997]

16. (1) The accounts of the Board shall be audited annually by an auditor appointed by the Minister.

(2) The Minister may at any time appoint an auditor to examine the accounts of the Board and to report thereon to him.

- (3) The members, officers and other employees of the Board shall grant to the auditor so appointed access to all books, documents, cash and securities of the Board and shall give to him on request all such information as may be within their knowledge in relation to the operations of the Board.
- (4) An auditor appointed under this section has power to summon and examine all persons whom he shall think fit to examine for the purpose of obtaining information in connection with the examination and audit of the accounts of the Board and respecting all other matters and things whatever necessary for the due performance of the functions vested in him; and if any person summoned as aforesaid is not a public officer or a member or any officer or other employee of the Board he is entitled to be paid for his attendance as if he were a witness attending a legal proceeding in obedience to the summons issued at the instance of the State.
- (5) Any person summoned under subsection (4) who, without reasonable excuse, makes default in obeying such summons is liable on summary conviction to a fine of two thousand seven hundred and fifty dollars or, in default of payment thereof, to imprisonment for one month.

Annual report

- 17.(1) The Minister may at any time appoint an auditor to examine the accounts of the Board and to report containing—
 - (a) an account of its transactions throughout the preceding calendar year in such detail as the Minister may direct; and
 - (b) a statement of the accounts of the Board audited in accordance with section 16.
- (2) A copy of the report together with a copy of the auditor's

report shall be laid before the National Assembly.

Power of the
Minister to give
directions to the
Board

18.(1) The Minister may, after consultation with the Board, give to the Board directions of a general or special character as to the policy to be followed by the Board in the performance of its functions as appears to the Minister to be requisite in the public interest, and the Board shall give effect to any such directions.

(2) The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Board and furnish him with returns, accounts and other information with respect thereto in such manner and at such times as he may require.

Exclusion of the
application of
Limitation Act
C. 7:02

19. The Limitation Act does not apply to proceedings instituted by the Board.

Parate execution

20. Monies due to the Board may be recovered by parate execution without prejudice to any other right of recovery available to the Board by virtue of any other law.

Search of
premises of
persons
[5 of 1994]

21.(1) If any officer has reasonable cause to suspect that an offence against section 6, 7, 8, 9 or 10 has been or is being committed and that evidence of the commission of the offence is to be found at any premises or other place then, upon oath made by the officer before a magistrate or justice of the peace of the fact of the suspicion, the magistrate or justice of the peace may, by warrant under his hand, authorise the officer, with all necessary assistance and by force if required and at any hour of the day or night, to enter the said premises or other place at any time within one month after the date of the warrant and to search the said premises or other place.

(2) A person authorised by any warrant as aforesaid to search any premises or other place may search every person found therein or whom he has reasonable cause to believe to have recently left those premises or that other

place and may seize any gold found therein or on any such person and any other article which he has reasonable cause to believe to be evidence of the commission of any offence against this Act:

Provided that no female shall be searched in pursuance of any warrant issued under this section, except by a female.

(3) Any officer who has reasonable cause to suspect that any person is unlawfully in possession of, or removing, any gold may stop and search that person and any vehicle or other conveyance in his possession or under his control, or in which he is, and any package under his control, and if any gold is found upon him or in any such vehicle, conveyance or package may seize and detain the same and arrest and detain the person until he can be brought before a magistrate and dealt with according to law:

Provided that no female shall be searched except by a female.

(4) In this section "officer" means every justice of the peace, customs officer, officer of the Department of Geological Surveys and Mines or of the Geology and Mines Commission, every member of the Police Force, every mines officer under the Mining Act 1989 and every person employed by the Board and authorised in writing for the purpose of this section by the General Manager of the Board.

Power to order
amnesty.
[2 of 1987]

22.(1) No person who sells all gold in his possession to the Board during the period commencing on 2nd September, 1986 and ending on 31st December 1986 or during such other period as may be prescribed by order of the Minister, and otherwise in accordance with such order, shall be prosecuted under this Act for conveying, purchasing or

otherwise acquiring or possessing such gold in contravention of the provisions of this Act, or in the case of the licensee referred to in section 9 for not maintaining the book required to be kept by him by that section in respect of such gold.

Offences and
penalties
[5 of 1994
6 of 1997]

23. Any person who—

- (a) contravenes or fails to comply with the provisions of section 6, 7, 8, 9 or 10; or
- (b) obstructs any officer of the Board, or any other person authorised by the Board to perform any function on its behalf in the exercise of his functions under this Act; or
- (c) breaches any condition imposed by the Board under section 9 (1), shall be liable on summary conviction—
 - (i) to a fine of seventy-five thousand dollars for the first conviction;
 - (ii) to a fine of seventy-five thousand dollars and to imprisonment for five years on the second or any subsequent conviction:

Provided that the Court may for any special reasons to be recorded in writing impose any lesser sentence, and to forfeiture of the gold in respect of which the offence was committed.

Power to accept
compensation
for offence
[5 of 1994]

24. Notwithstanding any other provision of this Act, the Minister may in any case he deems proper and in substitution for any proceedings in a court, accept on behalf of the Board a sum of money by way of compensation from any person reasonably suspected of a contravention of this Act or any regulation made thereunder:

Second
Schedule

Provided that such compensation shall be accepted only where the person reasonably suspected of such contravention has expressed his willingness in a duly

completed form in the Second Schedule that the contravention as aforesaid shall be so dealt with.

Regulations

25. The Minister may make regulations for the purpose of carrying out the provisions of this Act.

FIRST SCHEDULE

s.8

CONSTITUTION

Constitution of
the Board

1. The Board shall consist of not less than three and not more than seven persons, including the General Manager, appointed by the Minister from among persons appearing to him to be qualified for appointment by reason of their experience of, and shown capacity in, industry, trade, commerce and marketing.

Gazetting of
appointments

2. The names of all members of the Board as first constituted and every change in the membership of the Board shall be published in the *Gazette*.

Seal of Board

3. (1) The seal of the Board shall be kept in the custody of the Chairman of the Board or the Secretary and shall be authenticated by the signatures of the Chairman, or the Deputy Chairman, or the General Manager, and the Secretary of the Board.

(2) Every document purporting to be an instrument duly executed under the seal of the Board shall be received in evidence and deemed, without further proof to be so executed, unless the contrary is proved.

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

Meetings of the Board and the procedure thereat.

4. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and the meetings shall be held at such places and times and on such days as the Board may determine.
- (2) The Chairman may at any time summon a special meeting of the Board and shall summon a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any three members of the Board.
- (3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Board, and in the absence of the Chairman and the Deputy Chairman from a meeting of the Board the General Manager shall act as Chairman at the meeting.
- (4) Three members of the Board shall constitute a quorum.
- (5) Minutes in proper form of every meeting of the Board shall be kept by the Secretary and shall be confirmed by the Chairman, or the Deputy Chairman or the General Manager, as the case may be, as soon as practicable thereafter at a subsequent meeting.
- (6) The Board may co-opt any one or more persons to attend any meeting of the Board at which the Board is dealing with a particular matter, for the purpose of assisting or advising the Board, but no such co-opted person shall have any right to vote at the meeting.
- (7) Subject to the provisions of this schedule, the Board may regulate its own proceedings.

Committees, and powers of delegation

5. (1) The Board may appoint committees as it may think fit to examine and report to it on any matter whatsoever arising out of or connected with any of its functions.
- (2) Any such committee shall consist of at least two members of the Board together with such other persons, whether members of the Board or not, whose

assistance or advice the Board may desire.

- (3) Where persons, not being members of the Board, are members of a committee appointed under this paragraph, the Board shall pay to each of such persons, in respect of his membership of such committee such remuneration and allowances, if any, as the Minister may determine and such sums shall properly be payable out of the funds and resources of the Board.
- (4) The Board may reject the report of any such committee or adopt it either wholly or with modifications, additions or adaptations as the Board may think fit.
- (5) Subject to the provisions of this Act, the Board may delegate to any committee or member of the Board the power and authority to carry out on its behalf such functions as the Board may determine.

Protection of
members.

- 6. (1) No member of the Board is liable for any act done or omitted to be done by the Board in good faith in the course of carrying out its functions.
- (2) Where a member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board is liable to the extent that it would be if the member were a servant or agent of the Board.

Remuneration
of members of
the Board.

- 7. The Board shall pay to each of its members (other than the General Manager) in respect of his office such, if any, remuneration and allowances as the Minister may determine, and to the Chairman and to the Deputy Chairman, in respect of his office such, if any, remuneration and allowances to which he may be entitled in respect of his office as a member as may be determined.

SECOND SCHEDULE

GUYANA

FORM REQUIRED TO BE COMPLETED IN
ACCORDANCE WITH SECTION 24 OF THE
GUYANA GOLD BOARD ACT CAP. 66:01

I,
(Name)

of
(Address)

being.....
(Occupation)

hereby agree to pay to the Minister the sum of
.....

as compensation, in substitution for proceedings
against me in a court of summary jurisdiction for the
offence of

STATEMENT OF OFFENCE

PARTICULARS OF OFFENCE

Dated this day of 20
at

.....
Signature of Person reasonably suspected

