



GUYANA

ACT NO. 18 OF 2013

LOCAL GOVERNMENT COMMISSION ACT 2013

I assent,

D. Ramotar
Donald Ramotar,

President.

November 6, 2013

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SCHEDULE – Oath of Office

AN ACT to establish the Local Government Commission, as provided for by Article 78A of the Constitution, to provide for the Commission's functions and procedure; and for connected and incidental purposes.

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Enacted by the Parliament of Guyana:-

PART I PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Local Government Commission Act 2013 and shall come into operation on a date appointed by order of the Minister.

Interpretation.

2. In this Act –

“Chairperson” means the Chairperson of the Commission appointed under section 9;

“Commission” means the Local Government Commission established by section 3;

“member” means a member of the Commission;

“public officer” has the same meaning as in the Constitution;

“Secretary” means the Secretary of the Commission.

PART II LOCAL GOVERNMENT COMMISSION

Establishment
of Local
Government
Commission.

3. (1) There is established a Commission to be called the Local Government Commission which shall be a body corporate.

(2) In the exercise of its functions, the Commission shall not be subject to the direction or control of any authority.

Composition
of the
Commission.

4. (1) The Local Government Commission shall consist of eight members to be appointed as follows –

(a) three members appointed by the President acting in accordance with his own deliberate judgment;

(b) three members, appointed by the President, acting on the Advice of the Leader of the Opposition after consultation with other Parliamentary parties;

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- (c) one member, appointed by the President, after approval by the National Assembly upon a nomination by the Parliamentary Standing Committee on Appointments from persons submitted by Trade Unions within the Local Government System;
- (d) one member, appointed by the Minister after consultation with Local Democratic Organs.

(2) All appointments shall be made from among persons of unquestioned integrity and with extensive knowledge, where practicable, in **local government matters, administration, finance, Amerindian Affairs, industry or law.**

(3) A person shall be disqualified for appointment as a member of the Commission if he is a local government officer or if he holds any position in the service of the Government.

(4) An elected member of a local Government organ cannot be a councilor and a member of the Commission at the same time.

Oath of Office.

5. Every member of the Commission shall, before performing any of the functions of his office, take before the President the oath of office in the form set out in the Schedule.

Schedule

Term of office.

6. (1) A member shall hold office for a period of three years and shall be eligible for re-appointment on the expiry of the term.

(2) If a vacancy occurs in the Commission for a cause other than the retirement of a member at the expiration of his term of office, the person appointed to fill the vacancy shall hold office for the unexpired portion of the term of the member being succeeded.

Termination of appointment of members.

7. (1) The President may, subject to subsection (2), after meaningful consultation with the Leader of the Opposition, terminate the appointment of any member for any **good and sufficient cause**, and in particular if the member —

- (a) becomes of unsound mind or incapable of performing his duties;
- (b) becomes bankrupt;
- (c) is convicted in a court of law for any indictable offence;

- (d) is guilty of conduct inconsistent with membership of the Commission; or
- (e) is absent, except on leave granted by the Commission, from all meetings of the Commission held during two consecutive months.

(2) Before a member's appointment is terminated under subsection (1) he shall be given a reasonable opportunity of making representation.

Resignation of
members.

8. A member may resign from his office by letter addressed to the President.

Chairperson
and Deputy
Chairperson.

9. The Chairperson and Deputy Chairperson of the Commission shall be elected by and from the members of the Commission.

Vacancies.

10. (1) If the office of the Chairperson is vacant or the Chairperson is for any reason unable to perform the functions of that office, then the Deputy Chairperson shall act as Chairperson, or if the office of the Deputy Chairperson is vacant or the Deputy Chairperson is for any reason unable to perform the functions of Chairperson, the Commission may appoint one of the other members to act as Chairperson; and the Deputy Chairperson or other member shall act as Chairperson until a person has been appointed to the office of Chairperson and has assumed the functions of that office or, as the case may be, until the Chairperson has resumed the functions of that office, or if a member except the Deputy Chairperson, is acting as Chairperson, until the Deputy Chairperson has assumed or resumed those functions.

(2) If the office of a member of the Commission, except the Chairperson, is vacant or if a member is acting as Chairperson under subsection (1) or is for any other reason unable to perform the functions of a member, a person may be appointed to act in the office of the member and the provisions of section 4 shall apply to an appointment to act as they apply to the appointment of a person to hold the office of the member concerned; and any person appointed under this subsection shall continue to act until a member has been appointed to the office in which the person is acting and has assumed the functions of that office or, as the case may be, until the member has resumed those functions.

Leave of
absence.

11. The President may grant leave of absence to a member of the Commission.

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Acts valid
despite
vacancy.

12. An act, proceeding or meeting of the Commission shall not be invalid by reason of a vacancy in the membership or any defect in the appointment of a member, but if at any time and so long as the number of members acting is less than three, the Commission shall discontinue the exercise of its powers.

Functions of
Commission.

13. (1) The Commission shall have power to deal with all matters relating to the regulation and staffing of local government organs including employment and dismissal of staff and with dispute resolution within and between local government organs, and in particular shall –

- (a) monitor and review the performance and implementation of policies of all local government organs, including policies of taxation and protection of the environment;
- (b) monitor, evaluate and make recommendations on policies, procedures and practices of all local government organs in order to promote effective local governance;
- (c) investigate any matter under its purview and propose remedial action to the Minister, whenever or wherever necessary;
- (d) monitor and review all existing and proposed legislation, and or policies and measures relating to local government organs and make recommendations for any legislation or any amendments to any legislation and or policy to the Minister;
- (e) examine and propose ways of enhancing the capacity of local government organs.

(2) The Commission shall deal with all matters relating to staffing of local government organs and in particular shall –

- (a) be responsible for employment, transfer, discipline and dismissal of staff; and
- (b) approve of remuneration, superannuation, training, leave and promotion of staff.

(3) The Commission shall hear appeals instituted by employees who have been dismissed by any local government organ.

(4) The Commission shall hear and determine all matters concerning disputes arising within a local government organ or between any two local government organs.

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LAWS OF GUYANA

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Cap. 28:01
Cap. 28:02
Cap. 28:09
Cap. 29:01

(5) In the discharge of its functions the Commission shall have regard to the provisions of the Municipal and District Councils Act, the Local Government Act, the Local Democratic Organs Act, the Amerindian Act, and any other provisions bearing on matters of local government.

Investigation by
Commission.

14. (1) For the purpose of the exercise and discharge of its functions under this Act the Commission shall have power to initiate and conduct investigations into the activities of any local government organ including the power regarding staff referred to in section 13 (2).

Cap. 19:03

(2) For the purpose of dealing with any matter before it the Commission shall have all the powers to summon witnesses and all the privileges and immunities as are vested in a Commission appointed under the Commissions of Inquiry Act.

(3) In pursuance of subsection (2) a summons may be issued by the Secretary which shall have the same force and effect as a summons issued under the Commissions of Inquiry Act.

Meetings of the
Commission.

15. (1) The headquarters of the Commission shall be at Georgetown, but the Commission may for convenience hold meetings at any other place in Guyana;

(2) The Commission shall meet at the times as may be necessary or expedient for the transaction of its business;

(3) A quorum shall be three members;

(4) Subject to subsection (3) and section 12, no meeting shall be invalid only on the ground that there was a vacancy in the membership of the Commission;

(5) The Chairperson shall preside at meetings of the Commission and in the absence of the Chairperson, the Deputy Chairperson shall preside; in the absence of both of them from any meeting, the other members present shall elect one of their members to preside at the meeting;

(6) The Secretary shall, at each meeting of the Commission, keep in proper form, minutes of the meeting and the minutes shall be confirmed at the next meeting.

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Immunity of
members from
suit.

16. No action, suit, prosecution or other proceedings shall be brought or instituted personally against the Chairperson, Deputy Chairperson or any member, officer or employee of the Commission in respect of any act done in good faith in pursuance or execution of his powers or duties under this Act.

Emoluments of
members.

17. The Chairperson and members of the Commission shall receive such emoluments as may be provided for in the annual budget of the Commission approved by the National Assembly.

Expenses.

18. The expenses of the Commission shall be paid out of moneys provided by Parliament.

Power to
delegate.

19. The Commission may delegate, in written form, to any local government organ authority to perform duties and discharge functions on its behalf as it may determine.

Seal of
Commission.

20. (1) The seal of the Commission shall be kept in the custody of the Chairperson or the Secretary, as the Commission shall determine, and shall be affixed to instruments issued by the Commission or to resolutions of the Commission;

(2) The seal of the Commission shall be judicially noticed;

(3) All documents, except those required to be under seal, and all decisions of the Commission may be signified under the hand of the Chairperson or the Secretary.

Notification of
appointment
and change in
membership.

21. The appointment of all members of the Commission as first constituted and every change in its membership shall be published in the *Gazette*.

PART III

OFFICERS AND EMPLOYEES

Officers and
employees of
Commission.

22. (1) The Commission shall employ a Secretary and other officers and employees as may be necessary for the efficient discharge of its functions;

(2) The remuneration and other terms and conditions of employment of the Secretary and other officers and employees of the Commission shall be determined by the Commission.

Superannuation
benefits.

23. The Commission may provide for the payment of pension, gratuity or other allowances in respect of the service of its officers and other employees on their retirement from employment with the Commission.

PART IV BUDGET AND RESOURCES

Budget and
Resources of
Commission.

24. (1) The Commission shall determine its own annual budget for submission to the Minister of Finance for inclusion in the annual budget presented to the National Assembly;

(2) The Commission shall have the discretion and authority to disburse funds obtained in accordance with this Act subject to the provisions of any other law;

(3) The Commission's funds and resources shall consist of—

- (a) sums provided to the Commission by the Consolidated Fund or any law;
- (b) any property or investment acquired by or vested in the Commission;
- (c) money earned or arising from any property or investment acquired by or vested in the Commission;
- (d) sums allocated from time to time to the Commission from loan funds;
- (e) sums borrowed by the Commission for the purpose of meeting any of its obligations or the performance of any of its functions.

(4) The charges on any amount which may be allocated to the Commission from any loan funds shall be met by the Commission except that all or any part of such charges may be met out of moneys provided by or under any appropriation law.

(5) For the purpose of this section the expression "loan funds" means such sums as may be made available from time to time to the Government by way of loan.

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PART V ACCOUNTS

Form of
accounts.

25. The Commission may, by rules, prescribe the form of all books, accounts, papers and other records required to be kept by every local government organ, and every local government organ shall keep and render its books, accounts, papers and other records accurately and faithfully in accordance with internationally accepted accounting principles in Guyana and shall comply with the Commission's directions relating to such books, accounts, papers and other records.

Uniform
accounts.

26. Every local government organ shall keep and render to the Commission in the form and manner referred to in section 22 uniform accounts of all business transacted by it.

PART VI MISCELLANEOUS

Duty to co-
operate with
Commission.

27. It shall be the duty of every local government organ to co-operate with the Commission, its officers and employees in the discharge of their functions, and for that purpose to comply with all requests made or directions given by the Commission or its officers and employees.

Duty to furnish
information.

28. The Commission may require a local government organ to furnish to it at intervals as may be specified and at other times as the Commission may require a detailed report of finances and activities in the form and containing the particulars as the Commission may specify.

Annual Report.

29. The Commission shall publish an annual report relating generally to the exercise of its function, and a copy of every report shall be laid before the National Assembly by the Minister within six months of the following year.

Power to make
rules and
regulations.

30. (1) The Commission may make rules and regulations prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for the better carrying out of, or giving effect to, the provisions of this Act, and in particular for —

- (a) the form and manner or procedure in which matters may be brought before it; and
- (b) the procedures of the Commission.

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SCHEDULE s.5
Form of Oath

OATH OF OFFICE

I, do hereby solemnly declare that I will bear true faith and allegiance to the people of Guyana, that I will faithfully execute the office of without fear or favour, affection or ill-will and that in the execution of the functions of that office I will honour, uphold and preserve the Constitution of the Co-operative Republic of Guyana.

Passed by the National Assembly on the 7th August, 2013.



S.E. Isaacs,
Clerk of the National Assembly.

(Bill No. 13/2012)

(2) Until rules relating to subsection (1) (a) and (b) are made, the Commission shall regulate its own procedure.

(3) Rules and regulations made under subsection (1) shall be subject to affirmative resolution of the National Assembly.

(4) A person who contravenes any of the rules or regulations made under this Act creating offences, shall on summary conviction be liable to a fine of twenty thousand dollars and to imprisonment of three months.

Offences.

31. Every person who –

- (a) without lawful justification or excuse, wilfully obstructs or hinders any member, officer or employee of the Commission in the exercise of his powers under this Act;
- (b) without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirement of the Commission or any other person under this Act,

commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment of six months.

Appeal.

32. Any party dissatisfied with a decision of the Commission on a matter before the Commission, may appeal against the decision to the High Court.

Repeal.
Cap. 28:01

33. Sections 97 to 117 (inclusive) of the Municipal and District Councils Act are repealed.

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