

**CHAPTER 65:09**

**GUYANA GEOLOGY AND MINES COMMISSION ACT**

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## CHAPTER 65:09

### GUYANA GEOLOGY AND MINES COMMISSION

9 of 1979

**An Act to provide for the establishment and the functions of the Guyana Geology and Mines Commission and for purposes connected therewith.**

[14TH MAY, 1979]

Short title.  
[20 of 1989]

**1.** This Act may be cited as the Guyana Geology and Mines Commission Act.

Interpretation.

**2.** In this Act—

“Commission” means the Guyana Geology and Mines Commission established by section 3;

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“Commissioner” means the Commissioner of Geological Surveys and Mines.

ESTABLISHMENT OF THE GUYANA GEOLOGY AND MINES  
COMMISSION

3. There is hereby established a body corporate to be known as the Guyana Geology and Mines Commission and the provisions of the Schedule shall have effect as to the constitution and proceedings of, and otherwise in relation to, the Commission.

Establishment and incorporation of the Guyana Geology and Mines Commission. Schedule.

4. (1) It shall be the function of the Commission—

Functions of the Commission. [3 of 1987 20 of 1989]

(a) to promote interest in mining and mineral exploration, the development of the mineral potential of Guyana, and the production, supply and sale of minerals and mineral products;

(b) to participate in and advise on the economical exploitation, beneficiation, utilisation and marketing of the mineral resources of Guyana;

(c) to explore for mineral resources on lands using all available techniques, including geology, geochemistry, geophysics and other remote sensing methods;

(d) to exploit the said mineral resources, when discovered, using all available mining techniques including surface and underground mining;

(e) to undertake research into optimum methods of exploring for, exploiting and utilising minerals and mineral products of Guyana;

(f) to carry on all activities, the carrying on of which appears to the Commission to be requisite, advantageous or convenient for, or in connection with, the exercise of its functions.

(2) Without prejudice to the generality of subsection (1), the Commission may—

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(a) convert, remove and sell by auction or tender or in any other manner whatsoever, minerals or mineral products from State lands;

(b) construct roads for the transport of minerals and mineral products; and

(c) assist in providing access to areas where mining operations are carried on or are proposed to be carried on.

(3) The Commission shall be responsible for—

(a) the enforcement of the conditions of mining and dredging leases, concessions, or exclusive permissions, or any licence, permit, or mineral agreement granted, or entered into, or deemed to be granted or entered into, under the Mining Act;

(b) the collection and recovery of all rents, fees, royalties, penalties, levies, tolls and charges payable under the Mining Act and any other revenues of the Commission:

(c) Hall marking.

Provided that the Commission may, in relation to the collection and recovery of royalties payable in respect of gold under the Mining Act, by writing and subject to such terms and conditions as may be agreed upon between the Guyana Gold Board and the Commission, appoint the Guyana Gold Board to be its agent for the collection and recovery of such royalties.

(4) In this section—

(a) “gold” has the meaning assigned to it by the Guyana Gold Board Act 1981.

(b) “Guyana Gold Board” means the Guyana Gold Board established by section 3 of the Guyana Gold Board Act 1981.

(5) Where the exercise of any function by the Commission under this Act or any other law is subject to the approval of the Minister, it shall not be necessary to obtain that approval if the Minister is the Chairman of the Commission.

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**5.** (1) The Commission may employ at such remuneration and on such other terms and conditions it thinks fit (including the payment of pensions, gratuities or other like benefits by reference to the service of its officers and other employees) a Commissioner, a Secretary and such other officers and other employees as the Commission considers necessary for the purpose of carrying out its functions:

Employment of the Staff of the Commission.

Provided that—

(a) no salary in excess of such amount as may be specified in directions issued by the Minister shall be assigned to any office without the prior approval of the Minister;

(b) no appointment shall be made to any office to which a salary, in excess of such amount as may be specified in such directions, is assigned without the prior approval of the Minister;

(c) no provisions shall be made for the payment of any pensions, gratuities or other like benefits to the officers and other employees of the Commission by reference to their service, without the approval of the Minister.

(2) The Commissioner shall be the chief executive officer of the Commission and, subject to any general or special directions of the Commission, shall be responsible for the execution of the policy of the Commission and answerable therefor to the Commission.

(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 Commission, section 5 of that Act shall apply to him as if his service with the Commission were service in a public office.

c. 27:02

(4) Where a public officer is appointed to an office with the Commission, his service with the Commission 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).

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(5) Subsections (3) and (4) shall, as they apply in relation to a public officer, apply *mutatis mutandis* in relation to a teacher to whom the Teachers' Pension Act applies and who is employed by the Commission.

### FINANCIAL PROVISION

Funds and resources of the Commission.

6. (1) The funds and resources of the Commission consist of—

- (a) such sums as may be provided by Parliament;
- (b) such sums as may be allocated to the Commission from loan funds;
- (c) all sums received by or falling due to the Commission in respect of the repayment of any loan made by the Commission and the interest payable in respect of any such loan;
- (d) moneys earned or arising from any property, investments, mortgages and debentures acquired by or vested in the Commission;
- (e) any property, mortgages, debentures, or investments acquired by or vested in the Commission;
- (f) sums borrowed by the Commission for the purpose of meeting any of its obligations or discharging any of its functions;
- (g) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

(2) The charges on any amount which may be allocated to the Commission from 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 Parliament.

(3) Where there is a deficiency in the funds of the Commission such deficiency shall be met out of moneys provided by Parliament.

(4) For the purposes 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 a loan.

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7. The Commission may, with the approval of the Minister responsible for finance, borrow such sums as may be required by the Commission for meeting any of its obligations or carrying out any of its functions. Borrowing powers of the Commission.
8. Moneys standing at the credit of the Commission may, from time to time, be invested in securities approved either generally or specifically by the Minister, and the Commission may, from time to time, with the like approval sell all or any of such securities. Investments.
9. (1) With the approval of the National Assembly, the Minister responsible for finance may guarantee, in such manner and on such conditions as he may think fit, the payment of the principal and interest on any authorised borrowings of the Commission. Guarantee by the Minister of Finance of borrowing by the Commission and repayment of sums paid to meet guarantees.
- (2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under this section, he shall direct the repayment out of the revenues of Guyana of the amount in respect of which there has been such default.
- (3) The Commission shall make to the Accountant General, at such time and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any such sum issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister responsible for finance may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.
10. Subject to such conditions as it may deem fit to impose in particular cases the Commission may, out of its funds and resources, make loans in accordance with the provisions of this Act in that behalf, in the performance of its functions. Power of Commission to make loans.
11. In making loans under this Act the Commission may charge interest at such rate as it may deem fit in any particular case. Interest on loans made by the Commission

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Repayment of loans made by the Commission.

**12.** Subject to sections 13, 14 and 21(6), every loan made by the Commission shall be repaid to the Commission in accordance with the terms and conditions under which the loan was made and the moneys so paid shall thereupon be taken into the accounts of the Commission.

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

**13.** The Commission, with the approval of the Minister, may—

(a) postpone, for any time not exceeding five years, the payment of any sum due for principal and interest or for either principal or interest to the Commission in respect of a loan made by it upon such terms and conditions for the carrying out of the purposes for which the loan was made and for the ultimate repayment of such principal or payment of such interest as it may deem necessary;

(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.

Payment of loan before due date.

**14.** The Commission 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 the payment is due, upon such terms and conditions as it may think fit.

Examination as to application of moneys lent.

**15.** (1) Where the Commission has made a loan of money under this Act, it may—

(a) from time to time, make or cause to be made such examination as may be necessary to ensure that the loan is being applied to the purposes for which it was made;

(b) require financial statements in such detail as it may determine to be submitted by the person, body or authority in receipt of the loan biennially or at shorter intervals at the discretion of the Commission and such person, body or authority shall comply with the requirement.

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(2) The Commission may authorise in writing any of its officers or any other person to make such examination, and the person, body or authority in receipt of the loan shall produce to such officer or person all the relevant books, documents, and other matters and things necessary for the purposes of the examination.

(3) Any person who contravenes subsection (1)(b) or subsection (2) is guilty of an offence.

Order of Commission upon such examination.

**16.** Where upon any examination made under section 15 it appears to the Commission that any sum being the whole or any part of the loan has not been applied for the purposes for which the loan was made it may order that any such sum be, within the time mentioned in the order, applied to such purpose or that the sum together with any interest due thereon on the date of the order be repaid to the Commission within the time mentioned in the order, and any sum with the interest thereon so ordered to be repaid to the Commission thereupon becomes a debt due to the Commission.

**17.** (1) If any loan made under this Act or any part of the loan has been misapplied, the Commission may—

Misapplication of loan secured by mortgage or otherwise.

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

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

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(2) The powers conferred by subsection (1) are in addition to the powers conferred by any other provisions of this Act.

Enforcement of securities.

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

Charge on property and priority of loan.

**19.** Where a loan is made by the Commission 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 the 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 for any existing lien in favour of the State or any loan due to any creditor not assenting to such priority which has been made in good faith before the loan made by the Commission and which has been secured by a duly registered mortgage of the property.

Reserve Fund.

**20.** (1) The Commission shall maintain a reserve fund and shall, out of the net surplus for each year, transfer to that fund a sum equal to not less than such sum as may be fixed by the Minister.

(2) If the reserve fund is in any year insufficient to cover any net loss of the Commission recorded in its Profit and Loss Account, an amount equivalent to the deficiency is hereby charged on the Consolidated Fund:

Provided that if in any succeeding year any net surplus accrues to the Commission there shall be paid into the Consolidated Fund by the Commission, from time to time, such sum as may be agreed with the Minister responsible for finance together with interest thereon at such rate to be determined by him until the aforesaid amount is fully repaid.

(3) For the purposes of this section, net surplus shall be determined by deducting from gross income all expenses together with allowances for depreciation of assets, contributions to staff benefit

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funds, provision for bad and doubtful debts, and such other contingencies and accounting provisions as are usually made by comparable institutions.

**21.** (1) The Commission 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.

Accounts and  
audit.  
[6 of 1997]

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

(3) The members, officers and other employees of the Commission shall grant to the auditor appointed to audit the accounts of the Commission under subsection (1) or (2) access to all books, documents, cash and securities of the Commission and shall give to him on request such information as may be within their knowledge in relation to the operations of the Commission.

(4) An auditor appointed under this section shall have 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 Commission 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 an officer or other employee of the Commission he is entitled to payment for his attendance as if he were a witness attending a legal proceeding in obedience to a summons issued at the instance of the State.

(5) Any person summoned under subsection (4) who, without reasonable excuse, makes default in obeying the summons is liable on summary conviction to a fine of three thousand seven hundred and fifty dollars, or, in default of payment, to imprisonment for one month.

(6) The Commission may write off bad debts.

**22.** (1) The Commission shall not later than six months after the end of each calendar year submit to the Minister a report containing—

Report.

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- (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 Commission audited in accordance with section 21.

(2) A copy of the report together with a copy of the auditor's report shall be printed and laid before the National Assembly.

(3) Where the accounts of the Commission are kept by reference to a financial year different from the calendar year, the expression "calendar year" in this section shall be read with respect to the Commission as if the expression "financial year" were substituted therefor.

Limitation provisions excluded.

**23.** The Limitation Act shall not apply to proceedings instituted by the Commission for the recovery of moneys due to the Commission or any other property to which a claim is made by the Commission.

Recovery of moneys due to the Commission.

**24.** Any sum due to the Commission may be recovered by parate or summary execution and the right of recovery conferred by this section is in addition to any other procedure available to the Commission under any other law.

Charges on movable and immovable property.

**25.** (1) Every instrument or charge to secure a loan made by the Commission shall be prepared by the Commission and the borrower shall pay the legal charges and all necessary disbursements in connection therewith.

(2) Where the charge is created on immovable property the Registrar of Deeds shall, upon notice being served on him, annotate the charge against the title issued in respect of the property in the same manner as if it were subject to a mortgage passed before the High Court.

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MISCELLANEOUS

26. The Commission may at any time retain the services of professional persons and may pay such remuneration in respect thereof as the Commission may determine.

Services of professionals.

27. Any person who—

Offences in relation to loans.  
[6 of 1997]

(a) obtains a loan from the Commission under this Act by means of any false representation;

(b) wilfully applies any loan made to him by the Commission under this Act to any purpose other than the purpose for which the loan was made;

(c) having obtained a loan from the Commission under this Act, wilfully destroys any security given in relation to the loan,

is liable on summary conviction to a fine of twenty-seven thousand five hundred dollars and to imprisonment for twelve months.

28. In any criminal proceeding in respect of an offence under section 27(b), the onus of proving that he acted in good faith and without knowledge that he was not entitled so to apply the loan or any part thereof shall be upon the person charged.

Burden of proof in cases of misapplication of loans.

29. Any minutes made of meetings of the Commission shall if duly signed by the Chairman or the Deputy Chairman or the Commissioner presiding at a meeting of the Commission and without proof of any other matter or thing, be receivable in all legal proceedings as *prima facie* evidence of the proceedings of the Commission of which minutes have been made and every meeting of the Commission in respect of the proceedings of which minutes have been so made shall be deemed to have been duly convened and held and all members thereof to have been duly qualified to act.

Minutes receivable in evidence in legal proceedings.

30. The Minister responsible for finance may, by order which shall be subject to affirmative resolution of the National Assembly, exempt the Commission from liability for any tax, duty, rate, levy or other charge due to the revenue of Guyana.

Exemption from taxation.

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Power of the Minister to give directions to the Commission.

**31.** (1) The Minister may give to the Commission directions of a general character as to the policy to be followed by the Commission in the performance of its functions and the Commission shall give effect to those directions.

(2) In carrying out such measures of reorganisation or such works of development as involve a substantial outlay on capital account, the Commission shall act in accordance with a general programme approved, from time to time, by the Minister.

(3) In the exercise of its functions in relation to training, education and research, the Commission shall act in accordance with a general programme approved by the Minister.

(4) The Commission shall afford to the Minister information requested by him with respect to the business of the Commission and shall furnish him with annual estimates, and such returns as he may require.

(5) The Commission shall provide the Minister with such facilities as will enable the verification of information furnished in pursuance of this section.

(6) The power of the Minister to give directions to the Commission under this section shall extend to giving to the Commission directions as to—

- (a) the disposal of capital assets;
- (b) the application of the proceeds of such disposals.

(7) Any direction given under subsection (6) may require the whole or any part of the revenues of the Commission to be paid into the Consolidated Fund.

Collection of statistics.

**32.** The Commission may—

- (a) undertake the collection, preparation, publication and distribution of statistics relating to minerals and mining and promote and develop instruction in training in mineral

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exploration and mining by establishing or aiding schools or other educational institutions or in such other manner as it thinks fit;

(b) make or assist in making, such enquiries, experiments and research, and collect, or assist in collecting such information as it considers, important for the purpose of promoting mineral exploration and mining and the teaching of mineral exploration and mining and publish or otherwise disseminate the results of those enquiries and experiments or that research or information;

(c) make, or assist in making, such inquiries as it deems necessary for the purpose of securing an adequate supply of minerals and mineral products.

**33.** Any person guilty of an offence under this Act for which no special penalty is provided is liable on summary conviction to a fine of eight thousand two and hundred and fifty dollars and to imprisonment for three months.

Penalties.  
[6 of 1997]

**34.** The Commission may, with the approval of the Minister, make regulations which, in the opinion of the Commission, are necessary or expedient for the carrying into effect of the purposes of this Act.

Regulations.

**35.** (1) The assets of the Geological Surveys and Mines Department (including rights and interests) are hereby transferred to and vested, without further assurance, in the Commission.

Transfer of assets and liabilities and transitional provisions.

(2) As soon as practicable after the coming into operation of this Act (hereinafter referred to as “the appointed day”) the Commission shall, by way of compensation for any property vested in the Commission by virtue of this section, issue to the Government debentures or debenture stock of such nominal value and bearing such interest rates and repayment dates as may be agreed upon between the Minister responsible for finance and the Commission.

(3) Liabilities incurred by Government exclusively for the purposes of the Geological Surveys and Mines Department or incurred therefor under agreements duly contracted in the carrying out of its

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functions by the Department, before the appointed day shall, in so far as may be, discharged by, and be enforceable against, the Commission as if the said liabilities had been incurred by the Commission.

(4) Nothing in subsection (1) and (3) applies to rights or liabilities under any contract of service.

(5) For the purpose of give effect to the provisions of subsections (1) and (3) in relation to contractual rights and liabilities all such contracts shall as from the appointed day be construed with all due adaptations and modifications.

(6) All proceedings commenced prior to the appointed day for the enforcement of any rights or liabilities which are transferred or attached to the Commission by virtue of this section may be continued by or against the Commission, and any such proceedings may be amended accordingly.

(7) Subject to subsection (8), the Commission shall, as from the appointed day, continue to employ on such terms and conditions as may be agreed on between the Commission and him, any person exclusively employed in the Geological Surveys and Mines Department before the appointed day and any person who is so employed by the Commission shall be employed on terms and conditions which taken as a whole are no less favourable than those applicable to him immediately before the appointed day.

(8) The Commission shall be the successor of the Government in respect of any leave which may have accrued to any such person as is mentioned in subsection (7) who continues to be employed by the Commission, and service with the Commission shall be 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.

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SCHEDULE

1. (1) The Commission shall consist of—

Constitution of  
the  
Commission.

- (a) the Chairman who shall be appointed by the Minister, but if no person is so appointed, the Minister shall be the Chairman of the Commission;
- (b) the Commissioner;
- (c) not more than twelve other persons appointed by the Minister.

(2) The persons appointed by the Minister as members of the Commission pursuant to subparagraph (1) shall be persons who, in his opinion, are qualified for appointment by reason of their experience of, and shown capacity in, matters relating to the functions of the Commission or matters which will be advantageous to the Commission in the performance of its functions.

2. The names of the members of the Commission as first constituted and every change in the membership thereof shall be notified in the Gazette.

Gazetting of  
appointment.

3. (1) The seal of the Commission shall be kept in the custody of the Chairman of the Commission or the Secretary and shall be authenticated by the signatures of the Chairman or the Deputy Chairman or the Commissioner, and the Secretary of the Commission, or in such other manner as may be authorized by resolution of the Commission.

Custody and  
authentication  
of the seal of  
the  
Commission.

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

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

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Meetings of  
the  
Commission.

4. (1) The Commission 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 Commission may determine.

(2) The Chairman may at any time summon a special meeting of the Commission.

(3) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Commission, and in the absence of the Chairman and the Deputy Chairman from a meeting of the Commission, the Commissioner shall act as Chairman at the meeting.

(4) Five members of the Commission shall constitute a quorum for the transaction of business at meetings of the Commission.

(5) Minutes in proper form of every meeting of the Commission shall be kept by the Secretary and shall be confirmed by the Chairman or the Deputy Chairman, or the Commissioner, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(6) The Commission may co-opt one or more persons to attend any meeting of the Commission at which the Commission is dealing with a particular matter, for the purpose of assisting or advising the Commission, but any such co-opted person shall not be entitled to vote at the meeting.

(7) Subject to the provisions of this Act, the Commission may regulate its own proceedings.

Committees  
and power to  
delegate  
functions.

5. (1) The Commission may appoint committees as it may deem fit to examine and report to it on any matter arising out of or connected with any of its functions.

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

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(3) Where persons, not being members of the Commission, are members of a committee appointed under this paragraph, the Commission 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 Commission.

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

(5) Subject to the provisions of this Act the Commission may delegate to any committee or member or officer of the Commission the authority to carry out on its behalf such functions as the Commission may determine.

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

Disclosure of  
interest by  
member of the  
Commission.

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

(3) For the purposes of this paragraph, where the interest of parents, spouse or children of any member of the Commission is likely to be affected directly or indirectly by a decision of the Commission 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 of the Commission who contravenes or fails to comply with the provisions of this paragraph.

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Protection of  
members of  
the  
Commission.

7. (1) No member of the commission is liable for any act done or omitted to be done by the Commission in good faith in the course of carrying out its functions.

(2) Where a member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission is liable to the extent that it would be if the member were a servant or agent of the Commission.

Remuneration  
of members of  
the  
Commission.

8. The Commission shall pay to each of its members (other than the Minister or the Commissioner) in respect of his office such remuneration and allowances, if any, as the Minister may determine, and to the Chairman (if he is not the Minister) and the Deputy Chairman, in respect of his office such remuneration and allowances, if any (in addition to any remuneration and allowances, to which he may be entitled in respect of his office as a member) as may be so determined.

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