

LAWS OF GUYANA

MITCHELL TRUST FUND ACT

CHAPTER 13:23

Act

30 of 1937

Amended by

37 of 1950

O. 49/1953

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1 - 10	...
	1/2012

**Note
on
Subsidiary Legislation**

This Chapter contains no subsidiary legislation.

CHAPTER 13:23
MITCHELL TRUST ACT
ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Appointment of trustees.
4. Trustees not affected by dissolution of National Assembly.
5. Administration and accounting by trustees.
6. Cost of administration.
7. Appointment of Secretary.
8. Investment of estate.
9. Application of income from estate.
10. Applications to trustees.
11. Selection of beneficiaries.
12. Tenure and benefits.
13. Filling vacancies amongst beneficiaries.
14. Revocation of a benefaction.
15. Power to make rules.
16. Provision for cases of difference between the trustees.

SCHEDULE-Property held in trust

1953 Ed.
c. 53

30 of 1937

An Act to make provision for the future disposition of the charitable bequest contained in the will of Walter Mitchell, deceased, and for the administration of the assets now pertaining thereto.

[1ST JANUARY, 1938]

WHEREAS the late Walter Mitchell died at Georgetown on the 24th March, 1862, and by his last Will and Testament

dated 4th March, 1862, which was deposited in the Deeds Registry on 27th March, 1862, directed that after the lapse of fifteen years from the date of his death the whole of his residuary estate was to be at the disposal of the Legislature of Guyana in order to form or found a church college or other charitable institution in Guyana similar to the Saffon Establishment though not with the same exclusion but under similar rules for such purpose appointing the Legislature his residuary heir, leaving the arrangement to the superior judgment of the Governor and Court of Policy, the then Legislature of Guyana;

AND WHEREAS the Legislature of Guyana did from time to time give directions and make regulations for the application of the income accruing annually from the said residuary estate by the establishment of certain scholarships and foundations;

AND WHEREAS doubts having arisen as to whether such directions and regulations gave proper effect to the intention of the Testator in that they were not in strict accordance with the directions contained in the will of Pierre Louis De Saffon, deceased, as embodied in the Saffon Trust Ordinance, now Chapter 246 of the 1930 edition of the Laws of British Guiana, the Legislative Council did by a resolution dated 29th August, 1934, approve of an application being made to the Supreme Court for an interpretation of the before mentioned bequest;

AND WHEREAS an application as aforesaid was made to the Supreme Court on 13th October, 1936, and a judgment thereon given by His Honour the acting Chief Justice on 6th November, 1936;

AND WHEREAS by the terms of the aforesaid judgment the Court held, inter alia, that the income from the estate being insufficient to form or found a church college or other charitable institution in Guyana, the Cypres doctrine should

“the trustees” means the persons from time to time filling the office of trustees and having and exercising all the rights and powers in them vested by this Act

Appointment
of trustees.
[O. 49/1953]

3. (1) The estate shall be vested in a committee of the National Assembly which shall be styled “the Mitchell Fund Trustees” and shall consist of the persons following:

- (a) the Minister responsible for social welfare;
- (b) two other members of the National Assembly to be appointed by the Minister.

(2) The trustees shall hold office for a period of three years subject to section 4 and shall be eligible for re-appointment for a further term or terms.

(3) The Minister may, for any cause he deems sufficient cancel the appointment of a trustee and appoint another trustee in his place.

(4) A trustee shall vacate his office –

- (a) if he resigns in writing addressed to the Minister or,
- (b) if he departs from Guyana without the leave of the Minister, or
- (c) if he ceases to be a member of the National Assembly.

(5) The Minister may appoint any member of the National Assembly to act in the place of any trustee who is temporarily absent from Guyana.

(6) The foregoing subsections (other than subsection (1)) of this section shall not apply to the Minister responsible for social welfare.

Trustees not affected by dissolution of National Assembly.

4. Upon a dissolution of the National Assembly the Trustees, notwithstanding the provisions of the last preceding section, shall continue in office and shall have the powers and discharge the duties of trustees appointed under this Act until the day upon which the National Assembly next meets after a dissolution. Thereupon the trustees other than the Minister responsible for social welfare shall cease to be trustees but shall, subject to section 3(1) be eligible for reappointment by the Minister.

Administration and accounting by trustees. [37 of 1950]

5. (1) The trustees shall administer the estate in accordance with this Act and shall on or before the 31st May in each year present to the National Assembly an account of their administration during the twelve months ending on the preceding 31st December.

(2) The accounts of the trustees shall be audited by the Director of Audit annually and at such other times as the Minister may appoint.

Cost of administration.

6. The trustees shall not be entitled to remuneration for their services but may charge to the fund any disbursement on account of travelling and subsistence expenses together with all other costs, charges and expenses incidental to the administration of the estate.

Appointment of secretary. [O. 49/1953]

7. The person for the time being holding or acting in the office of Clerk of the National Assembly shall be Secretary to the trustees and shall be entitled to remuneration from the estate at the rate of seventy-two dollars *per annum* in respect of any period during which he discharges the duties of Secretary:

Provided that the Minister may at any time and for any

cause he deems sufficient appoint any other person to act in place of the Secretary and to receive the remuneration.

Investment of estate.

8. The trustees shall keep the funds of the estate invested in such securities as the Minister may from time to time approve.

Application of income from estate.

9. The annual income of the estate after deducting therefrom the cost of administration as hereinbefore provided shall be applied in the manner and to the extent hereinafter set out and any balance remaining shall be added to the funds of the estate of which it shall thereafter form a part.

Applications to trustees
(37 of 1950)

10. Within one month of the commencement of this Act or within one month of the occurrence of a vacancy under section 13 or within such further time as the trustees may allow, the Secretary to the trustees shall cause notices to be published in the *Gazette* and in two daily newspapers circulating in Guyana upon two occasions inviting applications to be made on or before the date specified in the notices (which date shall be approved by the trustees for the purpose) on behalf of children of either sex between the ages of five and sixteen years who are orphans or half orphans born in Guyana. Such applications shall be submitted in writing to the Secretary and in a form approved by the trustees.

Selection of beneficiaries.

11. Within three months of the commencement of this Act, the trustees shall select from the children eligible and on whose behalf application has been made, six beneficiaries, preference being given to the poorest and most needy.

Tenure and benefits.
[37 of 1950]

12. (1) The trustees shall pay to the parent or guardian of each beneficiary or to some other person selected by the trustees for the purpose the sum of one hundred and eighty dollars *per annum* until the beneficiary shall attain the age of sixteen years or shall cease to be a beneficiary.

(2) It shall be the duty of a parent or guardian or other person selected by the trustees to apply all sums received by them from the trustees for the care, maintenance, education and welfare of the beneficiary, and the trustees shall have power at any time to withhold any payment, or to make payment to some other person on behalf of the beneficiary, whenever the trustees have reason to believe that the parent, guardian, or person selected by them to receive payment, has not applied the sums received or any portion thereof as in the manner required.

(3) The Minister may, by order, increase or reduce the sum payable under this section.

Filling
vacancies
amongst
beneficiaries.

13. (1) Upon a vacancy occurring amongst the beneficiaries, the Secretary to the trustees shall proceed within the time and in the manner provided in section 10 and the trustees shall within a reasonable time thereafter select a new beneficiary in compliance with section 11.

(2) A vacancy shall occur –

- (a) when a beneficiary attains the age of sixteen years;
- (b) upon the death of a beneficiary;
- (c) upon the revocation of a benefaction by the trustees under section 14.

Revocation of a
benefactor.

14. The trustees may at any time subject to the approval of the Minister, revoke a benefaction if they are satisfied that a beneficiary has ceased to stand in need of or to merit further benefit from the estate.

Power to make
rules.

15. Subject to this Act, the trustees shall have power from time to time to make rules for the conduct of their business, and for the administration and management of the

LAWS OF GUYANA

estate which shall be binding on all persons affected thereby.

Provision for cases of difference between trustees.

16. If any difference of opinion arises between the trustees as to the exercise of any of the powers conferred by this Act, or as to the administration of the estate, they or one of them may report the matter to the Minister who shall give his opinion thereon, which when given, shall be binding on the trustees and on all persons claiming under the trust who shall be affected by the question so decided.

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SCHEDULE

DESCRIPTION						FACE VALUE IN STERLING
British Guiana (Ord. 19 of 1896)	4th Issue 3%	Bonds		75000
Do. do.	7th Issue	"	...	...		30000
Ceylon (1959)		Stocks	...	...		370174
British Guiana (Ord. 6 of 1916)	18th Issue	"	...	...		5218
Do. do.	20th Issue	"	...	...		8368
Do. do.	21st Issue	"	...	...		10434
Gold Coast (1939/59)		"	...	...		1,16838
Canada (1930/50)		"	...	...		74411
Cape (1933/43)		"	...	...		463145
Sierra Leone (1938/63)		"	...	...		94110
Straits Settlements(1937/67)		"	...	...		19315
New Zealand (1945)		"	...	...		1607193
Nigeria (1950/60)		"	...	...		1,00000
New Zealand (1946)		"	...	...		819154
						7,076152
Post office Savings Bank-Deposit						514210
						£7,590180