



GUYANA

ACT No. 6 of 2009

FORESTS ACT 2009

I assent

A handwritten signature in black ink, appearing to read "Bharrat Jagdeo".

Bharrat Jagdeo
President.

October 12, 2010

ARRANGEMENT OF SECTIONS

SECTION

PART 1 PRELIMINARY

1. Short title and commencement.
2. Interpretation.
3. Declaration of State forest.

PRICE: \$4,030.00 – To be purchased from Parliament Office, Georgetown, Guyana.

PRINTED BY GUYANA NATIONAL PRINTERS LIMITED.

PART 2
SUSTAINABLE FOREST MANAGEMENT OF STATE FORESTS

4. Purpose of this Part.
5. Restriction of activities in State forest.
6. Forest concession agreement.
7. Grant or renewal of smaller concessions.
8. Grant or renewal of larger concessions.
9. Exploratory permit.
10. Use permit.
11. Community forest management agreement.
12. Afforestation agreement.
13. Security bond.
14. Characteristics of State forest authorisations.
15. State forest authorisation to two or more persons.
16. Transfer of State forest authorisation or change in effective control.
17. Occupational safety and health.
18. Suspension, amendment, and revocation of State forest authorisation.
19. Amendment of State forest authorisation by agreement.
20. Surrender of State forest authorisation.
21. Moveable property brought into area of State forest authorisation.

PART 3
FOREST CONSERVATION

22. Purpose and application of this Part.

Conservation and protection of State forests

23. Specially protected areas.
24. Fire prevention.
25. Fire protection area.
26. Exception for protection and management of State forest.
27. Duty to report fires.
28. Duty to put out fires.
29. Assistance in fire or natural disaster.

General protection and conservation

30. Protection of tree and plant species.
31. Forest conservation areas on private land.
32. Disease and pests on any land.
33. Voluntary protection of private land.

PART 4**FOREST OPERATIONS AND ACTIVITIES RELATING TO FOREST PRODUCE**

34. Purpose and application of this Part.
35. Code of practice for forest operations.
36. Removal of forest produce.
37. Imported forest produce.
38. Building, relocation, etc of primary conversion plant.
39. Operation of primary conversion plant.
40. Use of premises as lumber yard.
41. Buying forest produce for resale.
42. Quality control of timber.
43. Compliance with international standards.
44. Export of forest produce.
45. Pricing below true market value.
46. Permits, licences, and certificates under this Part.
47. Application of sections 15 to 20.

PART 5**FOREST INFORMATION**

48. Duties of Commission.
49. Powers of Commission.
50. Duties of holders.
51. Public access to information.

PART 6**ADMINISTRATION**

52. Interpretation of this Part.
53. Appointment of forest officers.

Powers of Forest Officers

54. Entry for monitoring or survey purposes.
55. Entry on reasonable suspicion.
56. Warrant to enter dwelling-house.
57. Stopping and detaining vehicle.
58. Seizure of things.
59. Sale where seized thing subject to decay.
60. Return of seized things.
61. Power to require answers and production of permit, licence, certificate.
62. Orders to desist or to supply information.
63. General power to give directions.
64. Power to co-opt assistants.
65. Complaints against forest officers.

Offences and Penalties

66. Obstructing Commission or forest officer.
67. Compliance with conditions.
68. Offences.
69. Prosecutions.
70. Penalties.
71. Offences may be compounded.

PART 7
MISCELLANEOUS

72. Licence for forest produce on public land.
73. Ownership of forest produce.
74. Interest and recovery of sums due.
75. No right to authorisation, permit, etc.
76. Exemptions.
77. Protection of persons acting under authority of Act.
78. Relationship with Environmental Protection Act.
79. Relationship with other authorising legislation.
80. Regulations to prescribe fees, charges, levies.
81. Other regulations.
82. Consequential amendments.
83. Repeals.

84. Savings relating to declaration of State forest.
85. Savings relating to regulations under repealed enactments.
86. Transitional provisions relating to permits etc. under repealed Acts.
87. Transitional provisions relating to lumber yards.
88. Transitional provisions relating to leases, licences, permissions under State Lands Act.
89. Transitional and savings provisions relating to forest officers.
90. Savings relating to references to former Act.
91. Application to the State.

SCHEDULE 1	Penalties for Offences
SCHEDULE 2	Consequential Amendments
SCHEDULE 3	Repealed Acts

AN ACT to consolidate and amend the law relating to Forests.

A.D. 2009

Enacted by the Parliament of Guyana:-

**PART 1
PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Forests Act 2009 and shall come into operation on a date appointed by order of the Minister.

Interpretation.

2. In this Act -

“afforestation agreement” means an afforestation agreement granted under **section 12**;

No. 6 of 2006

“Amerindian” has the meaning given to it by section 2 of the Amerindian Act 2006.

No. 6 of 2006

“Amerindian Village” has the meaning given to it by section 2 of the Amerindian Act 2006;

No. 6 of 2006

“Amerindian Village lands” has the meaning given to it by section 2 of the Amerindian Act 2006;

“annual operating licence” means an annual operating licence issued under **section 39**;

No. 20 of 2007

“Commission” means the Guyana Forestry Commission established by the Guyana Forestry Commission Act 2007;

No. 20 of 2007

“Commissioner” means the Commissioner of Forests appointed under the Guyana Forestry Commission Act 2007;

“community forest management agreement” means a community forest management agreement granted under **section 11**;

“compliance history”, in relation to any person -

- (a) means the person’s history of compliance with laws, whether forestry-related or otherwise, in Guyana and elsewhere; and
- (b) includes –
any conviction for, or any evidence of, a serious criminal offence; punishable by imprisonment

“concession” means a forest concession agreement granted under **section 6**;

“concession area” means the area of State forest over which a concession is granted and within which the holder of the concession is authorised to cut and take forest produce;

“convey”, in relation to forest produce, means to transport that forest produce anywhere within Guyana;

“cut”, in relation to forest produce, includes fell or lop;

“damage”, in relation to forest produce, includes tap, bleed, or any action that may have a negative impact on the forest;

“document” includes –

- (a) any record kept in a visible and tangible form by any means and in any medium; and
- (b) any record kept in any medium by electronic means that enables it to be stored in permanent form and be retrieved and read;

No. 11 of 1996 “Environmental Protection Agency” means the Environmental Protection Agency established by the Environmental Protection Act 1996;

“exploratory area” means the area of State forest over which an exploratory permit is granted and within which the holder of the permit is authorised to carry out exploratory operations;

“exploratory operations” –

- (a) means operations carried out for or in connection with discovering and evaluating forest produce; and
- (b) includes carrying out forest inventories, social or environmental impact assessments, or topographic surveys;

“exploratory permit” means an exploratory permit granted under **section 9**;

“fire protection area” means a fire protection area declared under **section 25**;

“firewood” –

- (a) includes all waste wood and any parts of trees cut up in the manner in which it is usual to cut fuel wood and made up in bundles or loads; but
- (b) does not include sound straight timber of any kind;

“forest” –

- (a) means an ecosystem dominated by woody plants, consisting of –
 - (i) closed forest formations, where trees of various stories and undergrowth cover a high proportion of the ground; or
 - (ii) open forest with a continuous vegetation cover in which tree crown cover exceeds 10 percent; and
- (b) includes –
 - (i) mangrove forests and any wetlands or open lands within a forest which form an integral part of the ecosystem;
 - (ii) forest produce in the ecosystem; and
 - (iii) biological, soil, and water resources of the ecosystem;

“forest concession agreement” means an agreement of that designation by which the Commission grants a concession under **section 6**;

“forest conservation operations” includes –

- (a) the preservation of forests for the purpose of carbon sequestration; or any other form of environmental services;
- (b) the conservation of biological diversity;
- (c) eco-tourism;

“forest officer” means a person appointed as a forest officer under **section 53**;

“forest operations” includes –

- (a) the cutting or taking of forest produce;
- (b) the removal or conveyance of forest produce from any area;
- (c) the operation of a primary conversion plant;
- (d) the building or maintenance of any path, roadway, structure, or installation, and any other activity carried out to facilitate an activity specified in **paragraph (a), (b), or (c)**;

“forest produce” includes -

- (a) timber, firewood, charcoal, heart-of-palm, bark and extracts of bark;
- (b) latex, gums, resins, flowers, fruit, seeds, nuts, leaves, fibres, turpentine, spices, tan-stuffs, dye-stuffs, moulds, fungi, drugs, fodder and thatching material derived from trees or plants;
- (c) trees, plants (including bamboo and other grasses), and all parts and produce of trees and plants, regardless whether the trees or plants are dead or living; and
- (d) any other thing after public consultation, that the Commission, by public notice, declares to be forest produce;

“forest produce dealer’s licence” means a forest produce dealer’s licence issued under **section 41**;

Cap. 67:01

“former Act” means the Forests Act in force immediately before the commencement of **this Act**;

“holder” in relation to any State forest authorisation, permit, licence, or certificate –

- (a) means the person to whom the authorisation, permit, licence, or certificate is granted or issued;
- (b) where it is granted or issued to a person jointly with others, means each of those persons to whom the authorisation, permit, licence, or certificate is granted; and
- (c) includes every person to whom the authorisation, permit, licence, or certificate, or any interest in it is transferred;

No. 7 of 1996

“Iwokrama Rainforest” means the Programme Site as defined by section 2 of the Iwokrama International Centre for Rain Forest Conservation and Development Act 1996;

Cap. 20:02

“Kaieteur National Park” means the Kaieteur National Park constituted by section 2 of the Kaieteur National Park Act.

“manage”, in relation to any forest, includes carrying out forest operations, including conservation activities;

“premises” includes –

- (a) any building or other structure; and
- (b) any land;

“primary conversion plant” –

- (a) means any sawmill, or any other plant, machine, or equipment designed or used to break down or in any way convert any kind of forest produce in a raw form into products for sale, use, or further treatment or processing; and
- (b) includes a portable sawmill or a chainsaw;

“primary conversion plant permit” means a permit of that designation issued under **section 38**;

“private land” means land that is neither public land nor Village land;

“publicly notify” in relation to any document, information, or other matter, means to publish a copy of that document, information or other matter in at least one daily newspaper in general circulation in Guyana.

“public notice” means a publication in the *Official Gazette*;

“regulations” means regulations made under **this Act**;

“removal permit” means a permit issued under **section 36**;

“sawmill” –

- (a) means a mill designed and used to break down and convert logs or cants into boards, planks, scantlings or wood products suitable for further processing; and
- (b) includes a sawpit;

“sawpit” means an area or pit made to facilitate the operation of a pit-saw by manual labour.

“sell” includes –

- (a) every method of disposition for valuable consideration, including barter;
- (b) disposition to an agent for sale on consignment;
- (c) sell for export from Guyana;
- (d) offering or attempting to sell;
- (e) receiving, storing, or having in possession for sale;
- (f) exposing for sale;
- (g) sell after breaking down, converting, treating, planning or subjecting to any other kind of treatment or procedure,

and “resell” has a corresponding meaning;

“State forest” means an area declared to be a State forest under **section 3**;

“State forest authorisation” means an exploratory permit, a concession, a use permit, an afforestation agreement, or a community forest management agreement;

“sustainable forest management”, in relation to any land, means managing that land in a way that –

- (a) ensures that the forest produce and amenities derived from that land meets present-day needs; and
- (b) at the same time secures for future generations the continued availability and contribution of that forest produce and those amenities;

“take”, in relation to forest produce, –

- (a) includes extract, collect, or harvest; but
- (b) excludes any activity specified in **paragraph (a) or (b) of section 36 (1)**;

“timber” includes –

- (a) a tree, or any ligneous part of a tree, whether standing, fallen or felled; and
- (b) any wood, whether or not sawn, split, hewn or otherwise cut up or fashioned, except firewood;

“use permit” means a use permit granted under **section 10**;

Declaration of
State forest.

3. (1) The Minister may, by public notice, make an order declaring any area of public forested land to be a State forest.

(2) No order may be made except on the advice of the Commission that the forests in the area are suitable for long-term forestry purposes.

(3) An order under **this section** may be amended, suspended, or revoked by the Minister by public notice on the advice of the Commission.

(4) For the avoidance of doubt, nothing in **this section** applies to –

- (a) Amerindian Village lands as defined by section 2 of the Amerindian Act 2006;
- (b) Iwokrama Rainforest; or
- (c) Kaieteur National Park.

No. 6 of 2006

PART 2
SUSTAINABLE FOREST MANAGEMENT OF STATE FORESTS

- Purpose of this Part. 4. The purpose of **this Part** is to provide for the sustainable forest management of State forests having regard to -
- (a) any directions given by the Minister to the Commission under section 8 (3) of the Guyana Forestry Commission Act 2007; and
- (b) Guyana's international legal obligations;
- (c) recommendations arising from public consultations.
- No. 20 of 2007
- Restriction of activities in State forest. 5. (1) Except in accordance with **subsection (2)**, no person shall -
- (a) enter a State forest, provided that a person may travel through a state forest in the course of his journey and may reasonably occupy or use the forest for the purpose of his journey;
- (b) cut, damage, or take any forest produce, or carry out any other kind of forest operation in a State forest;
- (c) carry out any kind of exploratory operation in a State forest;
- (d) occupy or use any land in a State forest;
- (e) clear, cultivate, or turn soil in a State forest; or
- (f) graze or pasture livestock in a State forest.
- (2) A person may, in relation to a State forest, exercise or perform any right, power, duty, or privilege -
- (a) conferred or imposed by a State forest authorisation;
- (b) conferred or imposed by a licence for petroleum prospecting or production issued under the Petroleum (Exploration and Production) Act 1986;
- (c) conferred or imposed by a licence for mineral prospecting or mining issued under the Mining Act 1989;
- (d) otherwise conferred or imposed by or under **this Act** or any other written law; or
- (e) held by any Amerindian Village or Community under sustainable non commercial practices immediately before the commencement of **this Act**, if the right, power, duty, or privilege (as the case may be) is exercised or performed sustainably in accordance with the spiritual relationship of the group with the land.
- (3) **Paragraph (e) of subsection (2)** does not include a traditional mining privilege.
- No. 3 of 1986
- No. 20 of 1989

Forest concession agreement.

6. (1) In **this section**, “person having effective control”, in relation to an applicant, has the definition given to it by section 16(1), except that any reference in that definition to a holder shall be read as a reference to the applicant.

(2) Subject to **this section** and **sections 7 and 8**, the Commission may on application grant any person a forest concession agreement by entering into a legally binding agreement with the person concerned authorising that person to do all or any of the following –

- (a) enter and occupy a specified area of State forest;
- (b) cut and take a specified kind and quantity of forest produce in the area;
- (c) carry out other specified forest operations or carry out forest conservation operations in the concession area;
- (d) carry out specified operations in any other area of State forest as necessary to facilitate the activities or operations specified in **paragraph (a), (b), or (c)**.

(3) A concession may be granted to carry out forest conservation operations in an area even if forest produce suitable for commercial use occurs in the area.

(4) In determining an application, the Commission shall evaluate the technical and financial qualifications and compliance history of the applicant and every person having effective control of the applicant.

(5) No person may be granted a concession unless the Commission is of the opinion that the person –

- (a) intends in good faith to fulfil the forest concession agreement concerned; and
- (b) has the competence and resources to carry out the operations specified in that agreement.

(6) Unless sooner surrendered, revoked, or renewed under **this Act**, a concession expires on the earlier of –

- (a) the expiry date specified in the forest concession agreement concerned; or
- (b) the fortieth anniversary of the execution of that agreement.

(7) Where the holder of a concession under a Forest Concession Agreement applies to the Commission for the renewal of the agreement three months before the expiry of the agreement, the Commission may renew the agreement, extending the duration of the concession in accordance with the regulations and on conditions the Commission thinks fit.

(8) The Commission shall refuse to renew the concession if the holder has not substantially complied with the conditions of the forest concession agreement concerned, unless the Commission considers that special circumstances exist that justify renewal despite the non-compliance.

Grant or renewal of smaller concessions. 7. (1) Before granting or renewing any concession over an area of State forest 8097 hectares or smaller, the Commission shall -

(a) by public notice invite applications for a concession over the area and notify the locations where the documents referred to in **subsection (2)** may be inspected or bought; and

(b) provide any other publicity that the Commission considers necessary to bring the invitation to the attention of persons likely to be interested in obtaining a concession over the area.

(2) The Commission shall make available for inspection at its offices and for sale on a cost recovery basis copies of all documents in its possession concerning the forest produce and other features of the area that the Commission considers relevant to the preparation of applications.

Grant or renewal of larger concessions. 8. (1) No concession may be granted or renewed over an area of State forest larger than 8097 hectares, except -

(a) on application by the holder of an exploratory permit, under **section 9 (10)**; or

(b) on application by a person (including any duly constituted local or international environmental non-governmental organisation) who satisfies the compliance and other requirements for the right to carry out forest conservation operations in that area.

(2) Notwithstanding any other provision of **this Act**, no person shall carry out any forest operations or forest conservation operations within a concession area larger than 8097 hectares except -

(a) after the Commission has approved a forest management plan of at least 5 years duration and an annual operations plan for the concession area; and

(b) in accordance with those plans.

Exploratory permit. 9. (1) In this section, -

“appointed percentage” means -

- (a) a percentage prescribed by regulations; or
- (b) where no percentage is prescribed, 25 %;

“person having effective control”, in relation to an applicant, has the definition given to it by section 16 (1), except that any reference in that definition to a holder shall be read as a reference to the applicant.

(2) The Commission may on application grant an exploratory permit to any person -

- (a) to carry out exploratory operations within a specified area of State forest with a view to applying for a concession in respect of that area or any part of it; and
- (b) to cut and take specified kinds and quantities of forest produce from the exploratory area for testing, research and limited commercial purposes to the extent necessary to recoup no more than the appointed percentage of the costs and expenses (excluding capital expenditure) incurred in the exploratory operations during the life of the permit.

(3) Before granting an exploratory permit over an area, the Commission shall -

- (a) by public notice, invite applications for an exploratory permit over the area and notify the locations where the documents referred to in **subsection (4)** may be inspected or bought; and
- (b) provide any other publicity that the Commission considers necessary to bring the invitation to the attention of persons likely to be interested in obtaining an exploratory permit over the area.

(4) The Commission shall make available for inspection at its offices and for sale on a cost recovery basis copies of all documents in its possession concerning the forest produce and other features of the area that the Commission considers relevant to the preparation of applications.

(5) In determining an application for an exploratory permit, the Commission shall evaluate the technical and financial qualifications and compliance history of the applicant and where applicable every person having effective control of the applicant.

(6) If the Commission is satisfied that an applicant qualifies under **this Act** for the grant of an exploratory permit, the Commission may invite the applicant to submit a bid specifying the premium (which must be above the minimum value specified by the Commission), the applicant is offering to pay for the exploratory permit.

(7) If more than one applicant qualifies for the exploratory permit, the Commission may grant the permit by -

- (a) negotiating with the qualified applicants;
- (b) offering the exploratory permit to the public by competitive tender in accordance with the regulations.

(8) Unless sooner surrendered or revoked under **this Act**, an exploratory permit expires on the earlier of -

- (a) the expiry date specified in the permit; or
- (b) the third anniversary of its granting.

(9) An exploratory permit shall not be renewed.

(10) At any time while an exploratory permit is in force, the holder may apply for a concession in respect of all or any part of the exploratory area.

No. 3 of 1986
No. 20 of 1989

(11) For the avoidance of doubt, nothing in **this section** applies to exploring or prospecting for petroleum or minerals or any related matter provided for by the Petroleum (Exploration and Production) Act 1986 or the Mining Act 1989.

(12) For the avoidance of doubt, nothing in **this section** applies to exploring for anthropological and archaeological purposes.

Use permit.

10. (1) The Commission may on application, and after consultation with relevant stakeholders grant any person a Use Permit to enter, occupy, and use a specified area of State forest for one or more of the following purposes -

- (a) conducting scientific research;
- (b) education or training;
- (c) recreation or eco-tourism, including hiking and camping;
- (d) taking photographs or making films or videos or sound recordings;
- (e) any other purpose publicly notified by the Commission.

(2) No person shall cut or take any forest produce under a Use Permit except where -

- (a) the applicant satisfies the Commission that this is necessary for or incidental to *bona fide* scientific research;
- (b) the permit specifies the kind and quantity of forest produce that may be cut and taken; and
- (c) the forest produce is cut and taken in accordance with conditions specified in the permit.

(3) Unless sooner surrendered, revoked, or renewed under **this Act**, a Use Permit expires on -

- (a) the expiry date specified in the permit; or
- (b) the end of the calendar year in which the permit is granted.

(4) On application made by the holder at any time before the permit expires, the Commission may renew the permit on any conditions it thinks fit.

Community forest
management
agreement.

Cap. 88:01

Cap. 36:04

11. (1) In **this section**, "community group" means persons living within and having strong ties with the community and includes -

- (a) a registered community forestry organisation;
- (b) a registered society as defined by section 2 of the Co-operative Societies Act; or
- (c) a registered society as defined by section 2 of the Friendly Societies Act;
- (d) and any other similar society formed under any other law within the community group.

(2) The purpose of **this section** is to provide communities with a means of acquiring clear and secure rights to manage and benefit from their local forests on a sustainable basis in order to help meet local needs, stimulate income generation and economic development, and enhance environmental stability.

(3) The Commission may on application by any community group grant the group a community forest management agreement by entering into an agreement with the group concerned authorising that group to occupy a specified area of State forest and manage that area in accordance with the agreement.

(4) No community forest management agreement may be granted to a group unless the Commission is satisfied that the following persons have been given a free and fair opportunity to join or otherwise participate in the affairs of that group -

- (a) persons living in close proximity to the forest covered by the agreement; and
- (b) persons having strong traditional ties to use of that forest.

(5) Unless sooner surrendered or revoked under **this Act**, a community forest management agreement expires on the earlier of -

- (a) the expiry date specified in the agreement; or
- (b) the second anniversary of its granting.

Afforestation agreement.

12. The Commission, after consultation with relevant stakeholders may on application grant any person an afforestation agreement by entering into an agreement with the person concerned authorising that person to -

- (a) plant specified trees and specified plants in a specified area of State forest; and
- (b) manage the planted area in accordance with a forest management plan approved by the Commission.

Security bond.

13. (1) Subject to subsection (2), upon the grant or renewal of the Forest Authorisation, the Commission shall require the holder of any State Forest Authorisation (other than a community forest management agreement) -

- (a) to execute and pay a bond as security for -
 - (i) the performance and observance of the conditions of the authorisation; and
 - (ii) the fulfilment of any duty or obligation under this Act, including the payment of any fee, charge, levy, premium, fine, penalty, cost, expense, or other monies; and
- (b) to make arrangements to replenish the bond from time to time if the bond or any part of it is forfeited.

(2) The bond and arrangements referred to in **subsection (1)** are mandatory where a concession or exploratory permit is granted or renewed, but the Commission may, in exceptional circumstances, waive this requirement by publicly notifying that the waiver was granted and the Commission's reasons for granting it.

(3) The Commission may forfeit a bond or any part of it for failure to comply with any matter specified in **subsection (1) (a)**.

Characteristics of
State forest
authorisations.

14. (1) A State Forest Authorisation over an area unless otherwise provided –

- (a) is subject to conditions prescribed by regulations and any other conditions specified in the authorisation;
- (b) is subject to any right, power, duty, or privilege of a kind specified in **section 5 (2) (b) to (e)**;
- (c) does not give the holder exclusive rights of occupation over the area, unless otherwise specified in the authorisation;
- (d) does not authorise the holder to occupy or take any forest produce from any land that is lawfully occupied by any other person or group of persons;
- (e) does not exempt the holder from any requirement to obtain any other type of authorisation, consent, permission, permit, licence, or certificate imposed by or under **this Act** or any other written law; and
- (f) subject to **subsection (2)**, does not preclude another State Forest Authorisation of a different kind being granted in relation to that area.

(2) Where a State Forest Authorisation is in force in respect of forest produce in any area, no other State Forest Authorisation may be granted in respect of the same or a similar kind of forest produce in that area.

State forest
authorisation to
two or more
persons.

15. (1) No State Forest Authorisation may be granted to two or more persons associated together in any form of joint arrangement, unless each of them qualifies under **this Act** to be granted the State Forest Authorisation.

(2) Where a State Forest Authorisation is granted to two or more persons associated together in any form of joint arrangement, each of them is jointly and severally liable for the obligations of holders under **this Act**, but without prejudice to any right of contribution that may exist between any or all of them.

Transfer of State
forest authorisation
or change in
effective control.

16. (1) In **this section**, -

“appointed percentage” means –

- (a) a percentage prescribed by regulations; or
- (b) where no percentage is prescribed, 35 %;

“change in the effective control”, in relation to a holder, includes a change in the identity of persons having effective control of the holder;

“holder” means the holder of a State forest authorisation;

“person having effective control”, in relation to a holder, means -

- (a) where the holder is a body corporate, any person who has the legal or beneficial ownership, or direct or indirect control, of shares in the capital of the holder, or of any holding company of the holder, that -
 - (i) amount to more than the appointed percentage of the issued shares of the holder or holding company (other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital);
 - (ii) enable that person to exercise or control the exercise of more than the appointed percentage of the maximum number of votes that can be exercised at a general meeting of the holder or holding company;
 - (iii) enable that person to control the composition of the board of directors or other governing body of the holder or holding company; or
 - (iv) entitle that person to receive more than the appointed percentage of every dividend paid on shares issued by the holder or holding company (other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital);
- (b) any person with the power to determine the financial or operating policies of the holder, or (where the holder is a body corporate) any holding company of the holder;
- (c) any person who is regularly or usually in charge of the business of the holder;

- (d) any person who regularly directs the staff or agents of the holder in their duties;
- (e) any person who establishes or oversees the procedures of the holder; or
- (f) any person who employs or directs a person referred to in any of **paragraphs (b) to (e)**;

“transfer” means any form of disposition (whether by sale or otherwise) to another person.

(2) Except with the prior written consent of the Commission, no holder shall –

- (a) engage or involve itself in an act or omission that results or is likely to result in a change in the effective control of that holder; or
- (b) transfer or purport to transfer to any person the State forest authorisation held by the holder or any legal or equitable interest in that authorisation.
- (c) Enter into sub-contracting or sub-letting arrangements.

(3) Without limiting the generality of **subsection (2) (a)**, if a holder is a body corporate, the holder shall not, except with the prior written consent of the Commission, -

- (a) register the transfer of any equity share or shares in the body corporate to any person; or
- (b) enter into any agreement, arrangement, or understanding (whether or not having legal or equitable force) with any person,

if this results or is likely to result in a change in the effective control of the holder.

(4) If a change in the effective control of a holder occurs without the prior written consent of the Commission, the holder shall, on becoming aware of that change, immediately -

- (a) give the Commission written notice of that change; and
- (b) surrender the State forest authorisation to the Commission.

(5) On application in writing by a holder, the Commission shall grant written consent for the purpose of **subsection (2) or (3)**, as the case may require, if the Commission is satisfied that the requirements prescribed by regulations are met.

(6) A transfer or purported transfer made in breach of **subsection (2) (b)**, and a registration made or agreement, arrangement, or understanding entered into in breach of **subsection (3)**, is void.

(7) A breach of **subsection (2), (3), or (4)** invalidates the State forest authorisation concerned and that State forest authorisation is deemed revoked upon the breach being committed.

(8) **This section -**

- | | |
|----------------|---|
| No. 29 of 1991 | (a) applies to any act, omission, or occurrence within or outside Guyana; and |
| No. 21 of 1998 | (b) has effect notwithstanding anything to the contrary in any other written law (for example, the Companies Act 1991 or the Securities Industry Act 1998). |

Occupational
safety and health.

No. 32 of 1997

17. Every holder of a State forest authorisation shall, in carrying out activities under the authorisation, provide, in accordance with the Occupational Safety and Health Act 1997, for the occupational safety and health of workers involved in those activities.

Suspension,
amendment, and
revocation of State
forest
authorisation.

18. (1) The Commissioner may at any time suspend a State forest authorisation by giving written notice to its holder, if the Commissioner believes on reasonable grounds that the holder -

- (a) has committed an offence against **this Act**;
- (b) has breached a provision of **this Act**; or
- (c) is incapable of carrying out operations in accordance with the State forest authorisation, any applicable forest management plan, or any applicable annual operations plan.

(2) Before suspending a State forest authorisation, the Commissioner shall give the holder -

- (a) at least 2 weeks' written notice of the proposed suspension which period shall commence on the date of the delivery of the notice of the proposed suspension;
- (b) a reasonable opportunity to be heard; and
- (c) in the case of an authorisation in respect of an area larger than 8097 hectares, a reasonable opportunity to remedy or rectify the matter giving rise to the proposed suspension, if the matter can be remedied or rectified.

(3) Notwithstanding **subsection (2)**, the Commissioner may immediately suspend a State forest authorisation by written notice to the holder where the Commissioner is satisfied that any delay might result in irreversible degradation of or irreparable damage to the forest concerned.

(4) As soon as practicable and no later than 2 months after the suspension, the Commissioner shall make a full report to the Commission of the circumstances of the suspension together with a recommendation for the Commission.

(5) As soon as practicable after considering the report, the Commission shall make a decision and by written notice to the holder -

- (a) withdraw the suspension;
- (b) continue the suspension for a specified period of time not exceeding one year from the date of that written notice;
- (c) amend the State forest authorisation; or
- (d) revoke the State forest authorisation.

(6) The Commission shall, give the holder an opportunity to be heard before making a decision under **subsection (5)**.

(7) A suspension lapses on the expiry of 6 months after its commencement unless the Commission has made and notified a decision under **subsection (5)**.

(8) Nothing in **this section** affects or limits remedies available to the Commission in law or equity for breach of any forest concession agreement, afforestation agreement, or community forest management agreement.

Amendment of
State forest
authorisation by
agreement.

19. In addition to its powers under **section 18 (5) (c)**, the Commission may at any time amend a State forest authorisation by written agreement with the holder.

Surrender of State
forest
authorisation.

20. The holder of a State forest authorisation may at any time surrender the authorisation by giving written notice to the Commission.

Movable property
brought into area
of State forest
authorisation.

21. (1) The owner of any movable property brought onto land under a State forest authorisation may remove the property from that land any time—

- (a) during the term of the authorisation; or
- (b) no more than 90 days after the expiry, surrender, or revocation of the authorisation.

(2) If any movable property remains on that land for more than 90 days after the expiry, surrender, or revocation of the authorisation, the Commissioner shall -

- (a) dispose of it in any manner that the Commissioner thinks fit (including by sale); and

- (b) recover the costs and expenses reasonably incurred under **paragraph (a)** as a civil debt due to the Commission from the owner of that property.

PART 3
FOREST CONSERVATION

- Purpose and application of this Part.
22. (1) The purpose of **this Part** is to provide for the protection and conservation of forests, including measures to –
- (a) conserve biological diversity;
 - (b) protect specific trees and plants;
 - (c) conserve soil and water resources; and
 - (d) protect forests against degradation, fires, pests, and diseases,

having regard to Guyana's international legal obligations.

- (2) Nothing in this **Part** applies to –
- (a) Iwokrama Rainforest;
 - (b) Kaieteur National Park; or
 - (c) any other area designated as a conservation area.

Conservation and protection of State Forests

- Specially protected areas.
23. (1) The Environmental Protection Agency may, by public notice, make an order –
- (a) declaring a specified area of State forest to be a specially protected area for a specified period not exceeding 25 years; and
 - (b) prohibiting any disturbance of the soil, vegetation, rivers, or creeks in that specially protected area.
- (2) Before making an order, the Environmental Protection Agency shall –
- (a) publicly notify the proposed order, the reasons for making it (including environmental considerations), and the locations where the documents referred to in **subsection (3)** may be inspected or bought;
 - (b) provide any other publicity that the Agency considers reasonably necessary to bring the notice to the attention of all persons whose interests may be affected by the order;

- (c) invite written submissions from interested persons, and receive them, for not less than 10 days from the date of publication of the proposed order in the *Gazette* under **paragraph (a)**;
- (d) hold a public hearing to discuss the proposed order and receive oral or written submissions; and
- (e) consult the Commission on any submissions received on the proposed order.

(3) The Commission shall make available for inspection at its offices, and for sale on a cost recovery basis, any documents that the Commission believes would assist the public to develop a reasonable understanding of the reasons for the proposed order.

(4) No order may be made except with the approval of the Minister and on the advice of the Commission that the order is necessary to protect the area of State forest concerned from activities likely to cause damage to its soil or water resources.

(5) No person shall breach an order made under **this section**.

(6) An order under **this section** is subject to negative resolution of the National Assembly.

Fire prevention.

24. (1) No person shall in any State forest -
- (a) throw down a lighted match or lighted or inflammable material; or
 - (b) do anything else likely to result in any forest produce being burnt or damaged.
- (2) Nothing in **subsection (1)** applies to -
- (a) a forest officer acting under **section 26**; or
 - (b) a person complying with a direction given under **that section**.

Fire protection area:

25. (1) The Commission may, by public notice, make an order declaring -
- (a) any specified area of State forest; and
 - (b) any area of forest within 1.6 kilometres of that area of State forest,
- to be a fire protection area.
- (2) No person shall light an outdoor fire in a fire protection area except in accordance with a fire permit issued by a forest officer.
- (3) A forest officer may issue a fire permit on any conditions that he thinks fit.
- (4) Nothing in **subsection (2)** applies to -

- (a) a forest officer acting under **section 26**; or
- (b) a person complying with a direction given under **that section**.

Exception for protection and management of State forest.

26. A forest officer may burn or direct any person to burn any fire lines, grass, or other inflammable material that the officer considers necessary for the better protection or management of any area of State forest.

Duty to report fires.

27. (1) **This section** applies to any person who finds a fire burning on any land that the person knows or suspects is in a State forest or a fire protection area.

(2) A person to whom this section applies shall, as soon as practicable, inform or cause to be informed the nearest available forest officer or a member of the Guyana Police Force of the existence and location of the fire.

(3) Nothing in **this section** applies to a fire lit under **section 26**.

Duty to put out fires.

28. (1) Where a fire is burning on any land in a State forest or a fire protection area, every person specified in **subsection (2)**, whether or not the person lit the fire or caused the fire to be lit, shall –

(a) immediately upon becoming aware of the fire, take all possible steps to extinguish the fire; and

(b) if it appears that with the resources at his disposal he will be unable to extinguish the fire, as soon as practicable inform or cause to be informed the nearest available forest officer or a member of the Guyana Police Force of the existence and location of the fire.

(2) **Subsection (1)** refers to the following –

(a) the owner of the land on which the fire is burning (where the land is not in a State forest);

(b) the occupier of the land on which the fire is burning;

(c) any person who holds a State forest authorisation in respect of that land.

(3) Notwithstanding that a person has complied with **subsection (1)** with respect to giving information as to the existence and location of a fire, he shall continue to take all possible steps to extinguish the fire.

(4) Nothing in **this section** applies to a fire lit under **section 26**.

- Assistance in fire or natural disaster.
29. (1) A forest officer may require any person who is within a reasonable distance of any State forest to assist in –
- (a) averting, extinguishing, or minimizing the effects of fire or any natural disaster in the forest; or
 - (b) securing any property within the forest from loss or damage from the fire or natural disaster.
- (2) The Commission shall recompense any person required to do work under **subsection (1)** at a reasonable rate to be determined by the Commission.
- (3) Where any person required to assist under **subsection (1)** sustains bodily injury and as a result –
- (a) is rendered temporarily incapable of work;
 - (b) is permanently disabled (either totally or partially); or
 - (c) dies,
- the person shall be deemed to be an insured person and the injury shall be deemed to have been caused by an accident arising out of and in the course of that person's insurable employment for the purposes of the National Insurance and Social Security Act.
- Cap. 36:01

General protection and conservation

- Protection of tree and plant species.
30. (1) On the advice of the Commission, the Minister may by public notice make an order –
- (a) declaring any species of tree or plant that occurs in forests to be a protected tree or protected plant; and
 - (b) prohibiting, restricting, or regulating the cutting, damaging, taking, removal, delivery, conveyance, sale, purchase, export of, or any other dealing with –
 - (i) any protected tree or protected plant; or
 - (ii) any bark, leaf, seed, fruit, flower, latex, gum, or other specified part or substance of any protected tree or protected plant.
- (2) An order may exempt any class of persons, activities, or land.
- (3) No person shall breach an order made under **this section**.
- (4) An order under **this section** is subject to negative resolution of the National Assembly.
- (5) Nothing in **this section** affects or limits any measures for the conservation of wildlife or biological diversity, or for the protection of any area, adopted under or given force by the Environmental Protection Act 1996 or any written law.
- No. 11 of 1996

- Forest conservation areas on private land.
31. (1) The Minister may by public notice make an order –
- (a) declaring any forest on private land to be a forest conservation area; and
 - (b) prohibiting, restricting, or regulating all or any of the following –
 - (i) entry into the forest conservation area;
 - (ii) cutting, damaging, taking, or removing any forest produce in the forest conservation area;
 - (iii) other forest operations in the forest conservation area;
 - (iv) exploratory operations in the forest conservation area;
 - (v) clearing, cultivating, or turning of soil in the forest conservation area;
 - (vi) grazing or pasturing of livestock in the forest conservation area;
 - (vii) setting of fire in the forest conservation area;
 - (viii) any other act in the forest conservation area that appears to be prejudicial to a purpose specified in any of **paragraphs (a) to (g) of subsection (2)**.
- (2) No order may be made except on the advice of the Commission that the order is necessary for –
- (a) conserving the forests of Guyana and securing the proper management of forest land;
 - (b) preventing soil erosion, coastal erosion, or erosion of the banks of rivers or creeks;
 - (c) preventing the deposit of mud, stones, or sand in rivers or creeks or on agricultural land;
 - (d) maintaining water supplies in springs, rivers, canals, reservoirs, aquifers, or water conservancies;
 - (e) minimising the risk or mitigating the impact of storms, winds, floods, or landslides;
 - (f) protecting roads, bridges, airstrips, or other infrastructure works; or
 - (g) preserving human health.

(3) An order may exempt any class of persons, activities, or land.

(4) No person shall breach an order made under **this section**.

(5) An order under **this section** is subject to negative resolution of the National Assembly.

(6) The State shall give the owner and the lawful occupier of any land declared to be a forest conservation area adequate compensation for the disturbance of their rights, including the fair value of all forest produce to which that owner or occupier would, but for the order, be entitled to remove from the land.

Disease and pests
on any land.

32. (1) **This section** applies where there is a risk of disease, pestilence, or other harm to any forest arising from -

(a) an introduction of exotic species of flora or fauna; or

(b) a condition or activity.

(2) Where **this section** applies, the Commission may, by written notice to the person specified in **subsection (3)**, direct that person to carry out specified works or measures, or take some other specified action, to reverse the introduction, rectify the specified condition, or stop the specified activity, within a period of 30 days or less specified in the notice.

(3) **Subsection (2)** refers to -

(a) the person responsible for the introduction referred to in **subsection (1) (a)**, or (as the case may be) for creating the condition or carrying out the activity referred to in **subsection (1) (b)**; or

(b) where that person cannot be identified, the owner or occupier of the land in which that introduction, condition, or activity occurred.

(4) The Commission shall cause a copy of the notice issued under **subsection (2)** to be posted in a conspicuous place on the land in which that introduction, condition, or activity occurred.

(5) Where a notice issued to a person under **subsection (2)** has not been complied with on the expiry of the time allowed by the notice for compliance, the Commission may cause any work or measure to be carried out or action to be taken that is reasonably necessary and appropriate for achieving the purposes of the notice, including entering the land concerned and carrying out any work or measure on that land.

(6) The Commission may recover the costs and expenses reasonably incurred under **subsection (5)** as a civil debt due to the Commission from the person to whom the notice was issued.

Voluntary protection of private land.

33. (1) The owner of any private land may request the Commission to carry out sustainable forest management activities including training in relation to forests on that land in a manner and on terms agreed between the Commission and the owner.

(2) If the Commission agrees to the request, the Minister may, by public notice, make an order applying to that land any provision of **this Act** that would otherwise not apply to that land, subject to any modifications agreed between the Commission and the owner of that land.

(3) **This section** has effect notwithstanding any provision to the contrary in **this Act**.

PART 4

FOREST OPERATIONS AND ACTIVITIES RELATING TO FOREST PRODUCE

Purpose and application of this Part.

34. (1) The purpose of **this Part** is to provide for -

- (a) the regulation of forest operations and activities relating to forest produce; and
- (b) quality control of value-added forest produce,

having regard to Guyana's international legal obligations.

(2) Nothing in **this Part** applies to forest operations -

- (a) carried out in the exercise of a right, power, duty, or privilege -
 - (i) conferred or imposed by a licence for petroleum prospecting or production issued under the Petroleum (Exploration and Production) Act 1986;
 - (ii) conferred or imposed by a licence for mineral prospecting or mining issued under the Mining Act 1989; or
- (b) in Kaieteur National Park.

No. 3 of 1986

No. 20 of 1989

- Code of practice for forest operations.
35. (1) The Commission may at any time submit to the Minister a proposed code of practice to regulate any class or description of forest operations.
- (2) On receiving a proposed code, the Minister shall –
- (a) publicly notify –
 - (i) the fact that a proposed code has been submitted to him;
 - (ii) the purport of the proposed code;
 - (iii) the locations where the documents referred to in **subsection (3)** may be inspected or bought;
 - (b) provide any other publicity that the Minister considers reasonably necessary to bring the matters specified in **paragraph (a) (i), (ii), and (iii)** to the attention of all persons whose interests may be affected by the code;
 - (c) invite and receive written submissions from interested persons for not less than 1 month from the date of publication in the *Gazette* of the matters specified in **paragraph (a)(i), (ii), and (iii)**;
 - (d) hold public hearings to discuss the proposed code and receive oral submissions; and
 - (e) consult the Commission on submissions received.
- (3) The Commission shall make available for inspection at its offices and for sale on a cost recovery basis –
- (a) copies of the proposed code; and
 - (b) any other documents that the Commission believes would assist the public to develop a reasonable understanding of the reasons for the proposed code.
- (4) After considering all submissions made and the views of the Commission, the Minister may –
- (a) adopt the proposed code with or without changes; or
 - (b) refuse to adopt the code.
- (5) The Commission –
- (a) shall publicly notify any adoption by the Minister of a code of practice and the locations where copies of the code may be inspected or bought; and
 - (b) shall make available copies of the code for inspection at its offices and for sale on a cost recovery basis.
- (6) A code of practice –

- (a) comes into force when its adoption is notified in the *Gazette* under **subsection (5) (a)**, unless the code expressly provides otherwise; and
- (b) shall, subject to **this section**, be regarded as subsidiary legislation for the purposes of the Interpretation and General Clauses Act.

Cap. 2:01

(7) No person shall carry out any forest operations in breach of a code of practice the adoption of which has been notified in the *Gazette* under **subsection (5) (a)**.

(8) Every code of practice adopted under **this section** is subject to negative resolution of the National Assembly.

(9) If a code is inconsistent with a regulation or an order made under **this Act**, the code is, to the extent of the inconsistency, of no effect.

(10) The Commission may at any time submit to the Minister a proposed amendment to any code of practice, and -

- (a) **subsections (2) to (4)** shall apply with all necessary modifications to the proposed amendment as if it were a proposed code of practice; and
- (b) if the Minister adopts the amendment, **subsections (5) to (9)** shall apply with all necessary modifications to the amendment as if it were a code of practice.

Removal of forest produce.

36. (1) Except in accordance with a removal permit issued to him by the Commission, no person shall -

- (a) remove any forest produce from any State forest, public land, Village lands, private land, or entry point into Guyana; or
- (b) convey within Guyana any forest produce removed from any State forest, public land, Village lands, private land, or entry point into Guyana.

(2) Subject to **the regulations**, the following persons are eligible to apply to the Commission for a removal permit -

- (a) in relation to the removal of forest produce from any State forest, public land, Village lands, or private land, or the conveyance of forest produce so removed, the person entitled to take the forest produce on the land concerned or any person acting under that person's authority;
- (b) in relation to removal of forest produce from an entry point into Guyana, or the conveyance of forest produce so removed, the person importing the forest produce or any person acting under that person's authority.

- Imported forest produce.
37. (1) The Minister may by order provide for prohibiting absolutely the importation of forest produce or any class or description of forest produce from any country, except under the authority of an import licence granted by the Minister.
- (2) No person shall import into or convey within Guyana any forest produce that has been unlawfully obtained in or unlawfully exported from any country.
- (3) In any prosecution for an offence of contravening or failing to comply with **subsection (1)**, the defendant shall have the burden of proving that any imported forest produce has been legally obtained in and legally exported from its country of origin.
- Building, relocation, etc of primary conversion plant.
38. No person shall build, relocate, or make any extension or alteration to a primary conversion plant except in accordance with a primary conversion plant permit issued to him by the Commission.
- Operation of primary conversion plant.
39. No person shall operate a primary conversion plant except in accordance with an annual operating licence issued to him by the Commission.
- Use of premises as lumber yard.
40. (1) In **this section** and **section 87**, "lumber yard" means any premises from which the business of buying, storing and selling timber is carried out.
- (2) No person shall -
- (a) use any premises as a lumber yard, or permit any premises to be used as a lumber yard; or
 - (b) operate a lumber yard on any premises, or permit the operation of a lumber yard on any premises,
- except in accordance with a lumber yard licence issued to him by the Commission in respect of those premises.
- Buying forest produce for resale.
41. (1) No person shall carry on the business of buying forest produce for resale except in accordance with a forest produce dealer's licence issued to him by the Commission.
- (2) **Subsection (1)** does not apply to a person carrying on the business solely or principally from premises covered by a lumber yard licence held by that person.

Quality control of
timber.

42. (1) No person shall sell any timber unless the timber has been graded and marked in accordance with guidelines made by the Commission in accordance with **subsection (2)**.

(2) The Commission may make guidelines concerning the grading and marking of timber by publicly notifying -

- (a) the fact that the Commission has made those guidelines;
- (b) the purport of those guidelines; and
- (c) the locations where copies of those guidelines may be inspected or bought.

(3) The Commission shall make copies of any guidelines made under **this section** available for inspection at its offices and for sale on a cost recovery basis.

(4) Guidelines made under **this section** -

- (a) may require any matter or thing to be approved by or to the satisfaction of a specified person or body;
- (b) may leave any matter or thing to be from time to time determined, applied, dispensed with, or regulated by a specified person or body; and
- (c) may exempt any class of persons, activities, or land in accordance with the regulations.

(5) The Commission may issue timber-marketing certificates upon the inspection of any timber for the purpose of giving an assurance that, at the time of inspection, the timber was of the exact specification or quality shown on the certificate.

(6) If there is any inconsistency between **this section** and the Guyana National Bureau of Standards Act 1984, that Act prevails.

No. 11 of 1984

Compliance with
international
standards.

43. (1) No person shall within or outside Guyana certify any forest produce as complying with any international standard for the purposes of export from Guyana unless the Guyana National Bureau of Standards has accredited that person to do this.

(2) Before making a decision to accredit or refuse to accredit any person for the purpose of **subsection (1)**, the Guyana National Bureau of Standards shall consult the Commission.

Export of forest
produce.

44. (1) No person shall export or enter for export any forest produce except in accordance with an export certificate issued to him by the Commission.

(2) No export certificate may be issued for any forest produce unless the produce conforms to any applicable standard established under the Guyana National Bureau of Standards Act 1984.

No. 11 of 1984

(3) No export certificate may be issued for any forest produce if the produce has been taken, removed, conveyed, or otherwise dealt with in breach of **this Act**.

Pricing below true market value.

45. (1) In this **section**, "true market value" means the price published in the *Gazette* by a prescribed body, or if no body is prescribed, the Forest Products Developing and Marketing Council or any successor agency, as the market price for specified kinds, grades, and classes of forest produce exported from Guyana.

(2) No person shall –

- (a) sell any forest produce for export from Guyana at a price that is below its true market value; or
- (b) ascribe a price below true market value to forest produce exported from Guyana.

(3) The prescribed body (or as the case may be, the Forest Products Developing and Marketing Council) or any successor agency shall consult the Commission before Gazetting any market price for the purposes of **subsection (1)**.

Permits, licences, and certificates under this Part.

46. A permit, licence, or certificate issued by the Commission under **this Part** –

- (a) is subject to conditions prescribed by regulation and any other conditions that the Commission specifies in the permit, licence, or certificate;
- (b) does not exempt the holder from any requirement to obtain any other type of authorisation, consent, permission, permit, licence, or certificate imposed by or under **this Act** or any other written law; and
- (c) may be renewed by the Commission in accordance with the regulations.

Application of sections 15 to 20.

47. (1) Subject to **subsections (2) and (3)**, **sections 15 to 20** apply with all necessary modifications to a permit, licence, or certificate issued under **this Part**, and to its holder, as if the permit, licence, or certificate were a State forest authorisation.

(2) Nothing in **subsection (1) (c), (2) (c), (3), or (8)** of **section 18** applies to a permit, licence, or certificate issued under **this Part**.

(3) Notwithstanding **section 18 (7)**, the suspension of a permit, licence, or certificate issued under **this Part** lapses on the expiry of 4 months after the date of commencement of the suspension unless the Commission has made and notified a decision to the holder under **section 18 (5)**.

(4) Subsection (3) shall only apply where there is justification for the lapse of four months, otherwise the Commission is obliged to notify its decision to the holder at the earliest date after the date of the commencement of the suspension.

PART 5

FOREST INFORMATION

Duties of
Commission.

48. The Commission shall -
- (a) cause State forests to be inspected from time to time for the purpose of monitoring compliance with **this Act**;
 - (b) keep any public registers of -
 - (i) applications made to the Commission;
 - (ii) the Commission's decisions on these applications;
 - (iii) State forest authorisations, permits, licences, and certificates granted or issued under **this Act**;
 - (iv) enforcement actions taken; and
 - (v) any other matter,required to be kept by regulations; and
 - (c) on request, provide any person with any information in its possession that it is authorised or required to disclose under **this Act** or any other written law.

Powers of
Commission.

49. For the purposes of **this Act**, the Commission may do all or any of the following -
- (a) by written notice require any person to furnish to the Commission any information reasonably considered to be necessary for the exercise or performance of any function conferred or imposed on the Commission or the Commissioner by **this Act**;
 - (b) convene a hearing or inquiry for the purpose of gathering information to resolve any dispute relating to a State forest authorisation, permit, licence, or certificate granted or issued under **this Act**;
 - (c) by written notice require the holder of a State forest authorisation, permit, licence, or certificate granted or issued under **this Act**, to bring specified matters to the notice of the Commission.

- Duties of holders.
50. (1) The holder of a State forest authorisation, permit, licence, or certificate granted or issued under **this Act** shall -
- (a) keep the books, records, registers, and other documents required to be kept by regulations; and
 - (b) allow any forest officer to inspect any of these documents at any time during working hours.
- (2) The Commissioner may at any time require the holder to send to the Commission, in any form specified by the Commissioner (including in the form of electronic records), copies of any document required to be kept.
- (3) For the purpose of investigating an offence or a suspected offence against **this Act**, a forest officer may at any time take possession of, copy, or otherwise reproduce any book, record, register, or other document required to be kept.
- Public access to information.
51. (1) Any person may make a written request to the Commission for any information held by the Commission.
- (2) The request shall specify with due particularity the information requested.
- (3) On receipt of the request, the Commission shall, as soon as practicable, and in any event no later than 45 days after receiving that request -
- (a) make available to the applicant all information requested except -
 - (i) any information obtained in commercial confidence, or other commercially sensitive information; and
 - (ii) any information the disclosure of which is likely to prejudice the security of Guyana; and
 - (b) where any information is withheld under **subparagraph (i) or (ii) of paragraph (a)**, notify the applicant in writing of the Commission's reasons for withholding the information.
- (4) The Commission may impose a reasonable charge for making the information requested available to the applicant (for example a charge equivalent to the photocopying costs incurred).

**PART 6
ADMINISTRATION**

- Interpretation of this Part. 52. In **this Part**, -
- “seizable thing” means any thing -
- (a) that has been taken, removed, conveyed, or obtained in breach of **this Act**;
 - (b) that has been used in offending against **this Act**; or
 - (c) that is evidence of an offence against **this Act**;
- “thing” includes -
- (a) any document;
 - (b) any forest produce or livestock;
 - (c) any baggage, package, parcel, machinery or other equipment, tools or other implements;
 - (d) any tent;
 - (e) any vehicle;
- “vehicle” -
- (a) means any conveyance for transporting people or goods, whether or not constructed or adapted for use on land; and
 - (b) without limiting **subparagraph (a)**, includes any horse cart, donkey cart, steam engine, steam roller, vessel, or aircraft”.
- Appointment of forest officers. 53. (1) The Commissioner may from time to time appoint any person to be a forest officer.
- (2) A forest officer shall be appointed either -
- (a) for a purpose of **this Act** specified in the forest officer’s instrument of appointment; or
 - (b) for the general purposes of **this Act**.
- (3) A forest officer shall be appointed either -
- (a) for a particular area of Guyana specified in the forest officer’s instrument of appointment; or
 - (b) to act generally throughout Guyana.
- (4) A person appointed as a forest officer -

- (a) who has committed an offence under this Act may at any time, after being afforded natural justice, be removed from office in accordance with the Guyana Forestry Commission Human Resource Manual of Procedure 2008;
- (b) may resign his office by giving written notice to the Commissioner; and
- (c) shall on removal from office or resignation, surrender to the Commissioner that officer's instrument of appointment.

(5) The Commissioner is by virtue of his office deemed to be a forest officer appointed under **this section** to act generally throughout Guyana for the general purposes of **this Act**, but **subsection (4)** does not apply to the Commissioner.

Powers of Forest Officers

- Entry for monitoring or survey purposes. 54. (1) For the purposes of monitoring compliance with **this Act**, a forest officer may, without warrant, during business hours -
- (a) enter, inspect, and search any premises specified in **subsection (2)**;
 - (b) inspect and search any thing in or on those premises;
 - (c) take or make copies of, or extracts from, any document found in or on those premises;
 - (d) take any samples or measurements in or on those premises.
- (2) **Subsection (1)** refers to -
- (a) premises within a State forest; or
 - (b) premises in or on which an act is or has been carried out for which a permit, licence, or certificate is required under **this Act**.
- (3) Any officer of the Guyana Lands and Surveys Commission, duly authorised, may enter, survey, demarcate, and make a map of any area of State forest during business hours.

- Entry on reasonable suspicion. 55. (1) **This section** applies where a forest officer reasonably suspects-
- (a) that an offence against **this Act** has been or is being committed in or on any premises; or

(b) a seizable thing is in or on any premises.

(2) Where this section applies, the forest officer may, without warrant, at any reasonable time (within or outside business hours) -

- (a) enter, inspect, and search those premises;
- (b) inspect and search any thing in or on those premises;
- (c) take or make copies of, or extracts from, any document found in or on those premises;
- (d) take any samples or measurements in or on those premises.

(3) Notwithstanding **subsection (2)**, a forest officer shall not enter a dwelling-house except -

- (a) with the consent of the occupier; or
- (b) where authorised by a warrant issued under **section 56**.

Warrant to enter dwelling-house.

56. A magistrate having jurisdiction over the relevant area, who, on the written application of a forest officer made on oath, is satisfied that there is reasonable ground for believing that a seizable thing is in or on a dwelling-house specified in the application may issue to the forest officer, unconditionally or subject to conditions, a warrant in the prescribed form authorising that forest officer to enter that dwelling-house on one occasion within 14 days of the issue of the warrant.

Stopping and detaining vehicle.

57. Where a forest officer reasonably suspects that a vehicle is a seizable thing, or that there is in or on the vehicle a seizable thing, the forest officer may at any time without warrant -

- (a) stop the vehicle;
- (b) detain that vehicle, either at the place where it is stopped or at any other place;
- (c) enter, inspect, and search that vehicle;
- (d) take or make copies of, or extracts from, any document found in or on that vehicle;
- (e) take any samples or measurements in or on that vehicle.

Seizure of things.

58. (1) A forest officer exercising powers under **section 54, 55, or 57** may, without warrant, seize any thing that the officer reasonably suspects is a seizable thing.

(2) The officer -

- (a) shall place on the thing seized a mark indicating that it has been seized; and
- (b) shall report the seizure to the Commissioner as soon as practicable but not later than 72 hours;
- (c) shall not alter or dispose of the thing unless authorised to do so by the Commissioner.

(3) Except as provided in **subsections (4) and (5)**, all things seized under **this section** shall be inventorised, taken to and detained at a secure place determined by the Commissioner.

(4) A forest officer may, with the consent of any person, give that person custody of a thing seized under **this section**.

(5) Every person given custody under **subsection (4)** -

- (a) shall hold the thing in safekeeping, free of charge and in accordance with any reasonable conditions imposed by the forest officer;
- (b) shall, if directed by a forest officer, make the thing available to, or give that thing to the custody of, that officer; and
- (c) shall not alter or dispose of the thing, unless authorised to do so by the Commissioner.

(6) If a person contravenes or fails to comply with **subsection (5)**, a forest officer may re seize the thing concerned and **this section** shall apply to a re seized thing as if that thing had been seized under **subsection (1)**.

(7) No person shall, without lawful justification, remove any thing seized or detained under **this section** from premises where it is lawfully kept.

(8) Without limiting the generality of **section 77**, no action may be taken against the Commission or any forest officer for the loss or deterioration of any thing seized or detained in good faith in the exercise of powers conferred by **this section**.

(9) Any Forest officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to forfeiture under this Act may be subject to disciplinary action in accordance with the Guyana Forestry Commission Human Resources Manual 2008 or be liable on summary conviction to a fine and imprisonment of up to six months.

Sale where seized thing subject to decay.

59. (1) If the Commissioner believes that any thing seized under **section 58** is subject to speedy and natural decay, the Commissioner may sell that thing.

(2) The Commission shall hold the proceeds of any sale under **subsection (1)** in trust pending the completion of any proceedings for an offence against **this Act** involving that thing.

Return of seized things.

60. (1) The Commission shall return any thing seized under **section 58**, or, if that thing has been sold under **section 59**, the proceeds of that sale, to the person from whom that thing was seized, if -

- (a) no proceedings for an offence against **this Act** in respect of which that thing was seized have been commenced within 3 months of the seizure; or
- (b) proceedings have been brought and completed but -
 - (i) every person charged has been acquitted; or
 - (ii) no Court order to forfeit that thing has been made under **this Act** or any other written law.

(2) Where anything is forfeited, the Commission may retain or dispose of it in such manner as the Commission thinks fit.

Power to require answers and production of permit, licence, certificate.

61. (1) Any forest officer may -

- (a) require any person who appears about to carry out, is carrying out, or is reasonably suspected of having carried out -
 - (i) an act of a kind specified in **section 5 (1)**; or
 - (ii) any act for which a permit, licence, or certificate is required under **this Act**,
 to produce any State forest authorisation, permit, licence, certificate, or other document that confers or imposes on him the right, power, duty, or privilege to carry out that act; and
- (b) require a person described in **paragraph (a)**, or any person found in possession of forest produce in a State forest, to answer questions and make a signed statement as to the truth of that person's answers.

(2) Nothing in **this section** shall be construed as to require any person to answer any question tending to incriminate himself.

Orders to desist or to supply information.

62. (1) For the purpose of enforcing **this Act**, a forest officer who reasonably suspects that any person is offending or has committed an offence against **this Act** may order that person -

- (a) to forthwith desist from offending;

- (b) to supply to that forest officer the name by which that person is commonly known and the person's family name or surname, date of birth, actual place of residence, and occupation.

(2) If the forest officer reasonably suspects that any of the details supplied under **subsection (1) (b)** are false or misleading, that officer may order that person to supply to that officer such verification of those details as it is reasonable in the circumstances to require the person to provide.

General power to give directions.

63. A forest officer may give to any person any directions reasonably necessary for the exercise of the officer's powers under **this Act**.

Power to co-opt assistants.

64. (1) When it is necessary to do so, a forest officer may employ any person or request any person to assist the forest officer in exercising any power conferred on that forest officer by **this Act**.

(2) A person employed or requested to assist a forest officer has the same powers as that forest officer while that person is under the immediate direction and control of that forest officer.

Complaints against forest officers.

65. (1) Any person may lodge an oral or a written complaint with the Commissioner if the person believes that a forest officer is guilty of misconduct or neglect of duty in the exercise, or alleged exercise, of a power conferred on forest officers by **this Act**.

(2) Every such complaint shall contain details of the alleged misconduct or neglect of duty and the Commissioner may, in order to satisfy himself as to the nature of the complaint, require further particulars from the complainant.

(3) The Commissioner shall, after receiving a complaint made in accordance with this section and further particulars (if any), -

- (a) notify the forest officer who is the subject of the complaint; and
- (b) appoint an investigator to investigate the complaint in accordance with **this section**.

(4) The investigator shall -

- (a) notify the forest officer of the investigation; and
- (b) after making inquiries and obtaining the information the investigator considers necessary in the circumstances, make a report to the Commissioner with recommendations as to whether or not the complaint should be upheld in whole or part.

(5) The Commissioner shall, after receiving the investigator's report and after giving the forest officer concerned the opportunity to comment on it, -

- (a) decide whether or not the complaint should be upheld in whole or in part;
- (b) notify the forest officer and the complainant of the Commissioner's decision; and
- (c) if appropriate, take disciplinary or any other action against the forest officer.

(6) Nothing in **this section** requires the Commissioner to investigate, or appoint an investigator to investigate, any complaint that the Commissioner considers frivolous or vexatious.

Offences and Penalties

Obstructing
Commission or
forest officer.

66. (1) No person shall -

- (a) assault, resist, obstruct, or use threatening language or behave in a threatening manner towards, -
 - (i) a forest officer exercising or performing a function conferred or imposed under **this Act**;
 - or
 - (ii) any person assisting a forest officer;
- (b) fail to comply with any requirement, direction, or order lawfully made, given, or issued under **this Act** by a forest officer or the Commission;
- (c) in circumstances where the person is required to provide any statement, return, or other information to a forest officer or the Commission, wilfully withhold relevant information;
- (d) provide to a forest officer or the Commission any statement, return, or other information that is false or misleading in any material respect;
- (e) personate or falsely claim to be a forest officer, a person assisting a forest officer, or a representative of the Commission;
- (f) being a forest officer, directly or indirectly take a bribe, gratuity, recompense, or reward, or make an arrangement with any person, -
 - (i) to neglect or omit to exercise or perform any function conferred on forest officers by **this Act**; or
 - (ii) to do, conceal, or connive at anything by which the provisions of **this Act** may be evaded; or

- (g) directly or indirectly give or offer to a forest officer any bribe, gratuity, recompense, or reward, or make an arrangement with the officer to induce that officer to do anything specified in **subparagraph (i) or (ii) of paragraph (f)**.

(2) Every person who refuses to allow a forest officer, or any person assisting the officer, to exercise or perform any function conferred or imposed under **this Act** shall be deemed to be obstructing the forest officer within the meaning of **subsection (1) (a) (i)**.

(3) A forest officer may arrest without warrant any person whom he reasonably suspects has committed an offence under this Act and who such officer has good reason to believe will abscond.

Compliance with conditions.

67. The holder of a State forest authorisation, permit, licence, or certificate granted or issued under **this Act** shall comply with every condition of the authorisation, permit, licence, or certificate.

Offences.

68. Every person commits an offence who –

- (a) contravenes or fails to comply with any of the following provisions –
- (i) **section 27 (2)** (duty to report fires);
 - (ii) **section 28 (1) or (3)** (duty to put out fires);
 - (iii) **section 38** (building, relocation, etc of primary conversion plant);
 - (iv) **section 39** (operation of primary conversion plant);
 - (v) **section 40 (2)** (use of premises as lumber yard);
 - (vi) **section 41 (1)** (buying forest produce for resale);
 - (vii) **section 42 (1)** (quality control of timber);
 - (viii) **section 43 (1)** (compliance with international standards);
 - (ix) **section 66 (1) (b), (c), or (d)** (obstructing Commission or forest officer);
- (b) contravenes or fails to comply with any of the following provisions -
- (i) **section 17** (occupational safety and health);

- (ii) **section 23 (5)** (specially protected areas);
- (iii) **section 24 (1)** (fire prevention);
- (iv) **section 25 (2)** (fire protection area);
- (v) **section 30 (3)** (protection of tree and plant species);
- (vi) **section 31 (4)** (forest conservation areas on private land);
- (vii) **section 35 (7)** (code of practice for forest operations);
- (viii) **section 44 (1)** (export of forest produce);
- (ix) **section 45 (2)** (pricing below true market value);
- (x) **section 50 (1)** (duties of holders);
- (xi) **section 67** (compliance with conditions); or
- (c) contravenes or fails to comply with any of the following provisions -
 - (i) **section 5 (1)** (restriction of activities in State forest);
 - (ii) **section 8 (2)** (grant or renewal of larger concessions);
 - (iii) **section 10 (2)** (use permit);
 - (iv) **section 16 (2), (3), or (4)** (transfer of State forest authorisation or change in effective control);
 - (v) **section 36 (1)** (removal of forest produce);
 - (vi) **section 37 (2)** (imported forest produce);
 - (vii) **section 58 (5), (7) or (9)** (power to seize);
 - (viii) **section 66 (1) (a), (e), (f), or (g)** (obstructing Commission or forest officer).

Prosecutions.

69. (1) The Commissioner or any person authorised by the Commissioner may commence proceedings for any offence against **this Act**.

(2) Proceedings for an offence against **this Act** may be brought summarily, or by indictment, at the election of the person bringing those proceedings.

(3) Where proceedings are brought summarily, the complaint in respect of the offence may be laid at any time within 6 months after the time when the matter of the complaint arose.

(4) In any proceedings for an offence against **this Act** it is not necessary for the prosecution to prove that the defendant intended to commit the offence.

- Penalties. 70. (1) Every person who commits an offence against **section 68 (a)** is liable on conviction –
- Schedule 1 (a) in the case of an individual, to the penalties specified for a Class 1 offence in **Schedule 1**; and
- Schedule 1 (b) in the case of a body corporate, to 10 times the fine specified for a Class 1 offence in **Schedule 1**.
- (2) Every person who commits an offence against **section 68 (b)** is liable on conviction –
- Schedule 1 (a) in the case of an individual, to the penalties specified for a Class 2 offence in **Schedule 1**; and
- Schedule 1 (b) in the case of a body corporate, to 10 times the fine specified for a Class 2 offence in **Schedule 1**.
- (3) Every person who commits an offence against **section 68 (c)** is liable on conviction –
- Schedule 1 (a) in the case of an individual, to the penalties specified for a Class 3 offence in **Schedule 1**; and
- Schedule 1 (b) in the case of a body corporate, to 10 times the fine specified for a Class 3 offence in **Schedule 1**.
- Schedule 1 (4) Each fine in **Schedule 1** is subject to increases and reductions in accordance with that schedule.
- (5) A court convicting a person of an offence against **this Act** may, in addition to any other penalty that may be imposed under **this Act**, make either or both of the following orders –
- (a) an order to forfeit to the State any thing used in the commission of the offence or taken, removed, conveyed, or obtained as a result of the offence being committed;
- (b) an order for the person convicted to pay the costs and expenses of any seizure or detention of a seizable thing in connection with the offence under **this Act**.
- (6) **This section** has effect regardless whether the conviction is obtained summarily or by indictment.
- Offences may be compounded. 71. (1) Notwithstanding **sections 68 and 70**, where the Commission has reasonable grounds to believe that a person has committed an offence against **this Act**, the Commission may, by agreement in a prescribed form with the person,

compound the act or omission constituting the offence upon payment to the Commission of a sum of money specified in the agreement.

(2) The Commission shall not compound any act or omission unless it is satisfied that -

- (a) the offence concerned is trivial or minor; and
- (b) the person concerned has not previously committed another offence of a similar nature in Guyana.

PART 7

MISCELLANEOUS

Licence for forest produce on public land.

72. (1) In **this section**, "Minister" means the Minister responsible for State lands.

(2) With the approval of the Minister, the Commission may grant any person a licence to -

- (a) cut and take any forest produce found on any area of unallocated public land outside State forests; and
- (b) occupy that land for this purpose.

(3) Subject to **subsections (4) to (6)**, **sections 14 to 21** apply with all necessary modifications to a licence granted under **this section**, and its holder, as if the licence were a State forest authorisation.

(4) Nothing in **subsection (8) of section 18** applies to a licence granted under **this section**.

(5) No licence granted under **this section** may be suspended or revoked without the Minister's consent.

(6) The Commission may renew a licence granted under **this section** on any conditions it thinks fit, in accordance with any regulations.

Ownership of forest produce.

73. (1) All forest produce on, or originating from, public land is the property of the State until the rights to the forest produce have been specifically disposed of in accordance with **this Act** or any other written law.

(2) Any timber found adrift, beached, stranded, or sunk, or marked or graded otherwise than in accordance with **this Act** is deemed to be the property of the State until the contrary is proved.

- Interest and recovery of sums due.
74. (1) Where any fee, charge, levy, premium, fine, penalty, cost, expense, bond, or other monies payable to the Commission under **this Act** or any agreement made under **this Act** remains unpaid after the date on which payment is due, the Commission may –
- (a) charge interest on the whole or any part of the unpaid sum for the whole or any part of the period between the date on which the payment was due and the date that payment is received; and
 - (b) recover the unpaid sum and any interest charged on it as a civil debt due to the Commission by the person liable to pay it.
- (2) Any interest charged shall be at a rate fixed by the Minister by public notice.
- No right to authorisation, permit, etc.
75. Where circumstances so dictate the Commission is not obliged to grant, issue, or renew any State forest authorisation or any permit, licence, or certificate under **this Act**.
- Exemptions.
76. (1) On the recommendation of the Commission, the Minister may, by public notice, make an order exempting any class of persons, activities, or land, from any of the provisions of **this Act**.
- (2) An order under **subsection (1)** is subject to affirmative resolution of the National Assembly.
- (3) Nothing in **this section** affects or limits any power to make exemptions conferred by any other provision of **this Act**.
- Protection of persons acting under authority of Act.
77. No person who does any act or omits to do any act –
- (a) in pursuance of any function conferred or imposed by or under **this Act**; or
 - (b) in compliance with a requirement, direction, or order made, given, or issued under **this Act**,
- shall be under any civil or criminal liability in respect of that act or omission, unless the person has acted or omitted to act in bad faith or without reasonable cause.

- Relationship with Environmental Protection Act. No. 11 of 1996
78. Subject to **section 79**, nothing in **this Act** affects or limits the application of the Environmental Protection Act 1996.
- Relationship with other authorising legislation.
79. (1) Notwithstanding any provision in any written law to the contrary, no person (other than the Commission) may issue or grant to any other person a lease, licence, permission, permit, consent, or other authorisation involving, authorising, or likely to involve or authorise any activity of a kind specified in **section 5 (1)**, except after consultation with the Commission.
- (2) For the avoidance of doubt, the reference to a licence in **subsection (1)** includes -
- No. 3 of 1986
- No. 20 of 1989
- (a) a licence for petroleum prospecting or production under the Petroleum (Exploration and Production) Act 1986;
- (b) a licence for mineral prospecting or mining under the Mining Act 1989.
- Regulations to prescribe fees, charges, levies.
80. (1) Subject to negative resolution of the National Assembly, the Minister may make regulations to impose all or any of the following -
- (a) a fee payable in respect of any application made under **this Act**;
- (b) a fee payable for the grant or renewal of any State forest authorisation, permit, licence, or certificate under **this Act**;
- (c) an annual management fee payable by the holder of any exploratory permit, concession, or use permit;
- (d) a charge payable by the holder of any State forest authorisation on forest produce taken under the authorisation;
- (e) an annual charge payable by the holder of any concession on forest produce standing in the concession area;
- (f) a levy to encourage sustainable forest management payable by the holder of any removal permit on forest produce removed from State forests;
- (g) a levy to encourage sustainable forest management payable by the exporter on forest produce exported from Guyana.

(2) The regulations may prescribe –

- (a) the method of calculating or assessing the fee, charge, or levy;
- (b) the manner in which the fee, charge, or levy shall be paid, including the use of inflation rates;
- (c) the currency in which the fee, charge, or levy shall be paid;
- (d) different fees, charges, or levies applicable in respect of different classes of documents created under **section 81 (1) (a)**.

(3) All charges imposed under **subsection (1)(d)** shall be paid into the Consolidated Fund, but all other monies payable under the regulations shall be paid into the general revenues of the Commission.

No. 19 of 1998

(4) Regulations made under **subsection (2) (c)** shall have effect notwithstanding any provision to the contrary in the Bank of Guyana Act 1998.

(5) The Commission is not liable to refund a fee paid in respect of an application under **this Act** even if the application is refused.

(6) No regulation may be made under **this section** except on the recommendation of the Commission.

Other regulations.

81. (1) Subject to negative resolution of the National Assembly, the Minister may make regulations for all or any of the following purposes -

- (a) creating different classes of exploratory permits, concessions, use permits, afforestation agreements, community forest management agreements, removal permits, primary conversion plant permits, annual operating licences, lumber yard licences, forest produce dealer's licences, or export certificates for any purpose connected to **this Act**;
- (b) specifying the form and content of any application, notice, State forest authorisation, permit, licence, certificate, or other document required or authorised by or under **this Act**;
- (c) specifying the manner of making any application or granting or issuing any notice, State forest authorisation, permit, licence, certificate, or other document required or authorised by or under **this Act**;
- (d) specifying criteria to be considered by the Commission in determining any application under **this Act**;
- (e) specifying qualifications for, and other restrictions on, the granting or issuing of any State forest authorisation, permit, licence, or certificate under **this Act**;

- (f) prescribing conditions of any State forest authorisation, permit, licence, or certificate granted or issued under **this Act**;
- (g) regulating the amendment, transfer, renewal, suspension, or revocation of any State forest authorisation, permit, licence, or certificate granted or issued under **this Act**;
- (h) providing for the preparation and implementation of -
 - (i) management plans in respect of specially protected areas declared under **section 23**;
 - (ii) fire protection plans in respect of fire protection areas;
 - (iii) management programmes in respect of trees or plants protected under **section 30**;
- (i) requiring the owner, occupier, or holder of a State forest authorisation in respect of any land within a fire protection area to carry out any requirement of a fire protection plan in respect of that area;
- (j) regulating the measurement of forest produce for the purposes of **this Act**;
- (k) prescribing offences in respect of the contravention of or non-compliance with any regulation made under **this Act**;
- (l) prescribing penalties that may be imposed on conviction for an offence prescribed under **paragraph (k)**, not exceeding the penalties specified in **section 70 (2)**;
- (m) requiring the holder of a State forest authorisation, permit, licence, or certificate granted or issued under **this Act**, to keep books, records, registers, and other documents, and to make reports or returns to the Commission or the Commissioner;
- (n) giving effect to, or enabling the exercise of any right in connection with, any of Guyana's international legal obligations;
- (o) requiring the Commission or the Commissioner to do anything for the purposes of **this Act**;
- (p) providing for any other matters necessary for giving full effect to the provisions of **this Act** and for the due administration of these provisions.

(2) Notwithstanding **subsection (1) (I)**, regulations made under **subsection (1)** may prescribe, in respect of the conviction of any person for an offence prescribed in the regulations and resulting in a waste of forest produce, additional penalties that may be imposed not exceeding 10 times the aggregate charges and levies that would have been payable in respect of the forest produce wasted, if that forest produce had been taken or removed, instead of wasted.

(3) Regulations made under **this section** or **section 80** -

- (a) may require any matter or thing to be approved by or to the satisfaction of a specified person;
- (b) may leave any matter or thing to be from time to time determined, applied, dispensed with, or regulated by a specified person;
- (c) may incorporate, adopt, or apply, with or without modification, all or any part of any other document prepared or issued by any body or authority;
- (d) may make exemptions for any class of persons, activities, or land;
- (e) may make different provisions in respect of different classes of persons, activities, land, documents, or other things, including different provisions in respect of the different classes of documentation created under **subsection (1) (a)**.

Consequential amendments.

Schedule 2
Cap. 62:03

82. (1) The Acts and subsidiary legislation specified in **Schedule 2** are amended in the manner indicated in that schedule.

(2) The Public Lands (Private Roads)(Wood Cutting) Regulations may be amended as if the amendments to those regulations had been made by regulation and not by **subsection (1)**.

Repeals.

Schedule 3

83. The Acts listed in **Schedule 3** are repealed.

Savings relating to declaration of State forest.

Cap. 67:01

84. Notwithstanding the repeal of the **former Act** by **section 83**, all orders made under the **former Act** declaring an area of land to be a State forest and in force immediately before the commencement of this Act shall be deemed to have been made under **section 3**.

Savings relating to regulations under repealed enactments.

85. (1) Notwithstanding **section 83**, the Timber Marketing Regulations and any other regulations -

- Cap. 67:04 (a) made under an Act repealed by **that section**; and
 (b) in force immediately before the commencement of **this Act**,

shall, to the extent that these could be made under **this Act**, be deemed to have been made under **this Act**.

- No. 11 of 1984 (2) For the avoidance of doubt, if there is any inconsistency between the Timber Marketing Regulations and the Guyana National Bureau of Standards Act 1984, that Act prevails.

Transitional provisions relating to permits etc. under repealed Acts.

86. (1) Subject to **subsection (2)**, on the commencement of **this Act** -

- Cap. 67:01 (a) a permission to occupy a State forest for the purpose of taking or obtaining forest produce, a lease, or a timber sales agreement, granted under the **former Act** and in force immediately before the commencement of **this Act** shall be deemed to be a concession granted under **section 6**;
- Cap. 67:01 (b) an exploratory permit granted under the **former Act** and in force immediately before the commencement of **this Act** shall be deemed to be an exploratory permit granted under **section 9**;
- Cap. 67:01 (c) a permit to remove timber granted under the **former Act** and in force immediately before the commencement of **this Act** shall be deemed to be a removal permit issued under **section 36**;
- Cap. 67:01 (d) a sawmill licence granted under the **former Act** and in force immediately before the commencement of **this Act** shall be deemed to be both a primary conversion plant permit issued under **section 38** and an annual operating licence issued under **section 39**;
- Cap. 67:01 (e) a timber dealer's licence granted under the **former Act** and in force immediately before the commencement of **this Act** shall be deemed to be a forest produce dealer's licence issued under **section 41**;
- Cap. 69:07 (f) a licence issued under the Balata Act and in force immediately before the commencement of **this Act** shall be deemed to be a forest produce dealer's licence issued under **section 41**;
- Cap. 67:04 (g) an export certificate granted under the Timber Marketing Act and in force immediately before the commencement of **this Act** shall be deemed to be an export certificate issued under **section 44**.

- (2) A document deemed under **subsection (1)** to be -
- (a) a concession;
 - (b) an exploratory permit;
 - (c) a removal permit;
 - (d) a primary conversion plant permit;
 - (e) an annual operating licence;
 - (f) a forest produce dealer's licence; or
 - (g) an export certificate,

shall not be renewed, and unless sooner surrendered or revoked under **this Act**, expires on the date on which the document would have expired had **this Act** not been passed.

(3) **This section** has effect notwithstanding any other provision to the contrary in **this Act**.

Transitional
provisions relating
to lumber yards.

87. (1) Nothing in **section 40 (2)** applies to the use of any premises as a lumber yard or the operation of a lumber yard in any premises -

- (a) by a person who holds a deemed annual operating licence under **section 86 (1) (d)** in respect of a primary conversion plant that was in use on those premises immediately before the commencement of **this Act**; or
- (b) by a person who -
 - (i) holds a deemed forest produce dealer's licence under **section 86 (1) (e)**; and
 - (ii) had used or operated those premises as a lumber yard immediately before the commencement of **this Act**.

(2) **Subsection (1)** expires the day 6 months after the commencement of **this Act**.

Transitional
provisions relating
to leases, licences,
permissions under
State Lands Act.
Cap. 62:01

88. (1) Subject to **subsection (2)**, a lease, licence, or permission granted or issued under the State Lands Act and in force immediately before the commencement of **this Act** -

- (a) in respect of an area of State forest, shall be deemed to be a concession granted under **section 6**; and
- (b) in respect of any other land, shall be deemed to be a licence granted under **section 72**.

(2) A document deemed under **subsection (1)** to be -

- (a) a concession granted under **section 6**; or

38

SCHEDULE 1
PENALTIES FOR OFFENCES

Sections 70 and 81 (1) (I)

Class of Offence	Penalties
Class 1	A fine of \$250,000*
Class 2	A fine of \$500,000* and imprisonment for a term of 6 months.
Class 3	A fine of \$1,000,000* and imprisonment for a term of 1 year.

*

1. The maximum fine for offences committed in each calendar year after the first anniversary of the commencement of **this Act** shall be increased or reduced by the actual percentage rate of general inflation as measured by the consumer price index for the previous calendar year.
2. Every increase of, or reduction to, a maximum fine under **paragraph 1** shall be cumulative, in that it shall be calculated in each case on the maximum fine applicable to offences of that class committed in the previous calendar year.

Interpretation:

“consumer price index” means the general consumer price index for Guyana as calculated by the Bank of Guyana on an annual basis.

(b) a licence granted under **section 72**, shall not be renewed, and, unless sooner surrendered or revoked under **this Act**, expires on the date on which the document would have expired had **this Act** not been passed.

(3) **Subsection (1)** has effect -

- (a) notwithstanding that any area of State forest included in a lease, licence, or permission referred to in **subsection (1)(a)** ceases to be State land on the commencement of **this Act**; and
- (b) notwithstanding any other provision to the contrary in **this Act**.

Transitional and savings provisions relating to forest officers.

Cap. 67:01

89. (1) Every person holding office as a forest officer under the **former Act** immediately before the commencement of **this Act** shall be deemed to have been appointed a forest officer under **section 53 (1)** on the commencement of **this Act**.

(2) A person deemed to be a forest officer under **subsection (1)** shall be deemed to have been appointed to act generally throughout Guyana for the general purposes of **this Act**.

(3) Unless the context otherwise requires, a reference in any written law or any document to a forest officer, or to a forest officer under the **former Act**, shall be construed as a reference to a forest officer appointed under **this Act**.

Savings relating to references to former Act.

90. Unless the context otherwise requires, a reference in any written law or any document to a provision of the **former Act** shall be construed as a reference to any corresponding provision of **this Act**.

Application to the State.

91. (1) Subject to **subsection (2)**, **this Act** binds the State.

(2) A failure to comply with, or a contravention of, any provision of **this Act** shall not make the State criminally liable, but the High Court may on the application of the Commission declare unlawful any act or omission of the State that constitutes the failure or contravention.

SCHEDULE 2
CONSEQUENTIAL AMENDMENTS

Section 82

Act or Regulations	Provision amended	Amendments
State Lands Act (Cap. 62: 01)	Section 2	<p>Insert, after the definition of "officer", the following definition –</p> <p style="text-align: center;">“ “State land” excludes any land in a State forest (as defined by section 2 of the No.6 of 2009 Forests Act 2009)”.</p>
State Lands Act (Cap. 62: 01)	Section 3	<ol style="list-style-type: none"> 1. Substitute, in subsection (1) (c) and (d), for the words “paragraphs (e) and” in both places where they occur, the word “paragraph”. 2. Delete paragraph (e) of subsection (1). 3. Insert, after subsection (1), the following subsection – <p style="text-align: center;">“(1A) No lease, licence, or permission shall be issued under this Act authorising anyone to take forest produce in State lands, but the Guyana Forestry Commission may grant a licence or issue a removal permit to do so in accordance with the Forests Act 2009.”</p>
State Lands Act (Cap. 62: 01)	Section 21	<ol style="list-style-type: none"> 1. Insert, after paragraph (b) of subsection (2), the following paragraph – <p style="text-align: center;">“(ba) holds a licence or removal permit under the Forests Act 2009 to take the substance or thing from or off the lands;”.</p> 2. Substitute, for paragraph (c) of subsection (2), the following paragraph –

Act or Regulations	Provision amended	Amendments
		<p>“(c) is the servant or agent of anyone holding a grant, licence, permission, or removal permit referred to in any of paragraphs (a) to (ba), and is acting within the privileges conferred by the grant, licence, permission, or removal permit;”.</p> <p>3. Insert, after the word “permission” the first time it occurs in paragraph (f) of subsection (2), the words “referred to in paragraph (a) or (b)”.</p>
Public Lands (Private Roads) Act (Cap. 62:03)	Section 3	<p>Insert, after subsection (2), the following subsection—</p> <p>“(3) Before exercising the power in subsection (1) in respect of any public land within a State forest, the Minister shall consult the Guyana Forestry Commission.”</p>
Public Lands (Private Roads) (Wood Cutting) Regulations . (Cap. 62:03)	Regulation 3	<p>1. Substitute, for the words “a fine of seventy-five dollars”, the words “the penalties specified, in section 70 (2) of the Forests Act 2009, for an offence against section 68 (b) of that Act”.</p> <p>No. 6 of 2009</p> <p>2. Substitute, for the words “officer of the Lands Department”, the words “forest officer appointed under the Forests Act 2009”.</p> <p>No. 6 of 2009</p>

SCHEDULE 3
REPEALED ACTS

Section 83

1. Balata Act (*Cap. 69:07*)
2. Forests Act (*Cap. 67:01*)
3. Forest (Miscellaneous Provisions) Act 1982 (No. 4 of 1982)
4. Forests (Exploratory Permits) (Amendment) Act 1997 (No. 15 of 1997)
5. Guyana Timber Export Board Act (*Cap. 67:03*)
6. Guyana Timber Export Board (Amendment) Act 1973 (No. 26 of 1973)
7. Guyana Timber Export Board (Transfer of Functions) Act 1981 (No. 14 of 1981)
8. Timber Marketing Act 1973 (*Cap. 67:04*)

Passed by the National Assembly on 22nd January, 2009.


S.E. Isaacs,

Clerk of the National Assembly.

(Bill No. 21 of 2007)