



GUYANA

ACT No. 3 of 2004

GUYANA ENERGY AGENCY (AMENDMENT) ACT 2004

I assent,

Bharrat Jagdeo,
President.

31st March, 2004.

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 2 of the Principal Act.
3. Insertion of new section 5A in the Principal Act.
4. Insertion of new section 5B in the Principal Act.
5. Insertion of new section 5C in the Principal Act.
6. Amendment of section 10 of the Principal Act.
7. Amendment of section 13 of the Principal Act.

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AN ACT to amend the Guyana Energy Agency Act 1997 to increase the powers of the Agency to grant petroleum and petroleum products import, wholesale, retail and other licences; to empower the Agency to mark petroleum and petroleum products and to apply an approved standard or specification thereto; to increase the Agency's regulation making powers and to increase penalties.

A. D. 2004

Enacted by the Parliament of Guyana:-

Short title.

No. 33 of 1997

1. This Act, which amends the Guyana Energy Agency Act 1997, may be cited as the Guyana Energy Agency (Amendment) Act 2003.

Amendment of
section 2 of the
Principal Act.

2. Section 2 of the Principal Act is hereby amended in the following manner -

- (a) by the insertion of the following definitions in their appropriate alphabetical order -
 - (i) "illegal petroleum" means petroleum and petroleum products imported in Guyana, stored or offered for sale by any person without a licence or which does not contain the marker or in the required proportion;
 - (ii) "licence holder" means the holder of a licence;
- (b) by the insertion in the definition of the word "vehicle" immediately after the word "stream roller" of the words ",boat, ship".

3. The Principal Act is hereby amended by the insertion immediately after section 5 of the following as section 5A -

Insertion of
new section 5A
in the Principal Act

"Powers of
the Agency" 5A (1). The Agency may, in respect of petroleum and petroleum products, grant and issue all licences including the following -

- (a) an import licence;
- (b) a wholesale licence;
- (c) an importing wholesale licence;
- (d) a retail licence;
- (e) a bulk transportation carrier licence;
- (f) a storage licence; and
- (g) a consumer installation licence.

(2) Notwithstanding anything in any other law, no other Government agency or authority or person may exercise the powers conferred on the Agency by subsection (1).

(3) Subject to subsection (2), this Act is in addition to and not in derogation of any other law.

4. The Principal Act is hereby amended by the insertion immediately after section 5A of the following as section 5B -

Insertion of
new section 5B in
the Principal Act

"Petroleum and
petroleum
product
marker." 5B.(1) The Agency shall, with effect from the commencement of the Guyana Energy Agency (Amendment) Act 2003, utilise a marking system to add markers to petroleum and petroleum products imported by every person under an import licence or import wholesale licence issued by the Agency for the purpose of identifying such petroleum and petroleum products as having been legitimately imported.

(2) The Agency shall mark with the approved markers all petroleum and petroleum products for domestic use including duty free and tax free petroleum and petroleum products.

(3) Importers shall ensure that -

- (i) all petroleum and petroleum products for domestic use arriving at or leaving their terminals or transferred ship to ship or by any other means are marked by the Agency;
- (ii) the Agency is advised of the arrival and movement of all imported petroleum and petroleum products.

(4) The importer shall pay the Agency a prescribed marking fee per litre in respect of petroleum and petroleum products marked.

(5) The Agency may take samples of petroleum and petroleum products from any person at random throughout Guyana and carry out tests and examination to determine the presence or level of the marker in the samples of the petroleum and petroleum products.

(6) The samples required under subsection (5) shall be supplied by an importer, wholesaler, retailer, or any person in control or possession of the petroleum or petroleum products to an inspector free of charge.

(7) The Agency shall perform such tests as may be necessary to determine that the presence of the marker is in the proportion determined by the Agency under this section in the volume of the petroleum and petroleum products and any further test that may be necessary to determine whether the petroleum and petroleum products have been lawfully obtained, stored, possessed, offered for sale, blended or mixed with any substance that is not approved by the Agency.

(8) The Agency shall make available the result of any test or examination done under these Regulations to the concerned licence holder or person in control of petroleum and petroleum products.

(9) Where the Agency gathers empirical evidence under this section such evidence may be admissible in a court of law.

(10) A person commits an offence who is in possession of petroleum and petroleum products wherein the marker is absent or if present is below the proportion determined by the Agency under this section and shall be liable on summary conviction to a fine of three million dollars and to imprisonment for three years and the court on convicting such person under this subsection shall order the forfeiture of the petroleum and petroleum products in relation to which the offence was committed and any vehicle which contains such petroleum and petroleum products.

(11) A person who imports petroleum and petroleum products without an import licence or wholesale import licence as the case may be commits an offence and shall be liable on summary conviction to the same penalties mentioned in subsection (10) in respect of the offence therein stated.

(12) A person who purchases, obtains, stores, possesses, offers for sale, sells, distributes, transports or otherwise deals in illegal petroleum and petroleum products, commits an offence and shall be liable on summary conviction to the same penalties mentioned in subsection (10) in respect of the offence therein stated.

(13) The Minister may, by order, prescribe a date with effect from which the Agency shall not add markers to petroleum and petroleum products.

5. The Principal Act is hereby amended by the insertion immediately after section 5B of the following as section 5C -

Insertion of new section 5C in the Principal Act.

"Regulations in relation to petroleum and petroleum products.

5C. (1) The Minister may, by regulations, in relation to petroleum and petroleum products, prescribe the following -

- (a) form of an application for a licence;
- (b) conditions for the grant and issue of a licence and the form of a licence;
- (c) conditions governing the transfer, surrender, amendment, suspension and cancellation of a licence;

- (d) validity and duration of a licence.
 - (e) ineligibility for a licence;
 - (f) general duty with regard to the safe handling and disposing of petroleum and petroleum products;
 - (g) duties in regard to buildings, measurement, specifications and standards;
 - (h) fire prevention and for dealing with measures for petroleum spills;
 - (i) the duties and powers of inspectors; including the authority to enter premises and seize illegal petroleum or to clean up petroleum and petroleum products spill;
 - (j) information and records to be kept;
 - (k) confidentiality of information in the possession of the Agency;
 - (l) the blending of petroleum and petroleum products;
 - (m) temporarily taking control of premises;
 - (n) approval of standards and specifications;
 - (o) the marking of petroleum and petroleum products;
 - (p) any other matter that may be necessary for the administration of this Act.
- (2) Regulations made under subsection (1) may prescribe for their breach -
- (a) a penalty of three million dollars and imprisonment for three years;

- (b) for the seizure and forfeiture of petroleum and petroleum products imported without an import licence;
- (c) for the seizure and forfeiture of any vehicle conveying petroleum and petroleum products imported without an import licence.

6. Section 10 (1) of the Principal Act is hereby amended in the following manner -

Amendment
of section 10
of the Principal
Act

- (a) for the words "producer, importer, distributor" substitute the words "licence-holder, producer".
- (b) for the words "production, importation, distribution" substitute the words "business, production,".

7. Section 13 (1) of the Principal Act is hereby amended by the insertion immediately after the words "heads of divisions" of the words "inspectors".

Amendment of
section 13 of the
Principal Act

Passed by the National Assembly on

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

(BILL No. 17/2003).