

THE OFFICIAL GAZETTE **22ND MAY, 2019**
LEGAL SUPPLEMENT — C

BILL No. 8 of 2019

Wednesday 22nd May, 2019

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

22ND May, 2019.

The following Bill which will be introduced in the National Assembly is published for general information.

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



BILL No. 8 of 2019
GUYANA GOLD BOARD (AMENDMENT) BILL 2019

ARRANGEMENT OF SECTIONS

Section

1. Short Title.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 6 of the Principal Act.
4. Amendment of section 7 of the Principal Act.
5. Amendment of section 9 of the Principal Act.
6. Insertion of new section 9A and 9B in the Principal Act.
7. Insertion of new section 12A in the Principal Act.
8. Amendment of section 23 of the Principal Act.
9. Amendment to Tax Act.

SCHEDULE

A BILL
Intituled

AN ACT to amend the Guyana Gold Board Act.

A.D. 2019

Enacted by the Parliament of Guyana:-

- Short title.
Cap. 66:01
1. This Act, which amends the Guyana Gold Board Act, may be cited as the Guyana Gold Board (Amendment) Act 2019.
- Amendment of section 2 of the Principal Act.
2. Section 2 of the Principal Act is amended by the insertion, immediately after the definition of “gold”, of the following definition –
- “Gold Trade Officer” means a public officer or any other person employed by the Government or any employee of the Board designated by the Minister under section 12A;”.
- Amendment of section 6 of the Principal Act.
3. Section 6 of the Principal Act is amended as follows –
- (a) in subsection (1), by the insertion, immediately after the words “the Guyana Gold Board (Amendment) Act”, of the word “2019”; and
- (b) by the substitution for the words “twenty-eight days”, of the words “seventy-five days”, wherever the words appear.
- Amendment of section 7 of the Principal Act.
4. The Principal Act is amended by the substitution for section 7 of the following –
- “Possession of gold by person, not being a producer.
7. (1) A person, not being a producer, who has a quantity of gold in his possession which exceeds one ounce shall, within seventy-five days of the coming into operation of the Guyana Gold Board (Amendment) Act 2019, sell that gold to the Board or to any agent authorised in writing by the Board.
- (2) This section shall not apply to a person who is–
- Cap. 80:01
Cap. 32:03
- (a) lawfully in possession of gold as the holder of a goldsmith’s licence under section 58 of the Tax Act or a certificate of registration as a dental practitioner

- registered under the Dental Registration Act; or
- (b) in transit in Guyana and has in his possession a quantity of gold that was not obtained in Guyana, the burden of proof being on the person in possession of that gold.”

Amendment of section 9 of the Principal Act.

5. Section 9(2)(a) of the Principal Act is amended by the substitution for the words “ten days” of the words “fourteen days”.

Insertion of new section 9B in the Principal Act.

6. The Principal Act is amended by the insertion, immediately after section 9A, of the following section as section 9B –

Special application to export gold not exceeding two thousand ounces.

9B. (1) Notwithstanding the provisions of sections 7, 8 and 9, a person may make a special application to the Board in the prescribed manner to export a doré bar, or quantity of gold, not exceeding two thousand ounces and the Board may authorise that person to export that doré bar or quantity of gold subject to any conditions as the Board thinks fit.

(2) The Board shall, in considering the grant of an application under subsection (1) and assessing any information received by it in that regard, apply the provisions of section 9A, *mutatis mutandis*.

Insertion of new section 12A in the Principal Act.

7. The Principal Act is amended by the insertion, after section 12, of the following section as section 12A –

“Gold Trade Officer.

12A. (1) The Minister may designate, by notice published in the *Gazette*, a public officer or any other person employed by the Government or any employee of the Board as a Gold Trade Officer for the purposes of this Act and the notice shall specify the geographical location and purpose for, and the provision in the Act under, which the officer is designated.

(2) Gold Trade Officers shall have the powers and exercise the functions assigned to them by the Minister, the Board or the General Manager of the Board.

(3) The General Manager shall, by virtue of his office, be a Gold Trade Officer and shall have all the functions and powers exercisable by a Gold Trade Officer appointed under this Act.”

Amendment of
section 23 of
the Principal
Act.

8. The Principal Act is amended by the substitution for section 23 of the following as section 23 –

“Offences and
penalties.

23. (1) A person who –

- (a) contravenes or fails to comply with the provisions of sections 6, 7, 8, 9, or 10;
- (b) obstructs any Gold Trade Officer, officer of the Board or any other person authorised by the Board to exercise any function under the Act from exercising the functions of that officer or person; or
- (c) breaches any condition imposed by the Board under section 9(1) or 9B(1),

shall be liable on summary conviction-

- (i) to a fine of one million dollars on a first conviction;
- (ii) to a fine of three million dollars and to a term of imprisonment for five years on the second and any subsequent conviction:

Provided that the Court may for any special reason, to be recorded in writing, impose any lesser sentence,

and to forfeiture of the gold in respect of which the offence was committed.

(2) Subject to the provisions of subsection (1) (a) –

- (i) any forfeiture imposed may be sued for and recovered through summary proceedings;
- (ii) the practice and procedure of the magistrates’ court in its civil jurisdiction shall apply in relation to any complaint under subsection (1)(b).”.

Amendment to
Tax Act.

9. The Tax Act is amended as set out in the Schedule.

Cap.80:01
Schedule

SCHEDULE

Section 9

**Amendment
to the Tax
Act.
Cap. 80:01**

1. The Tax Act is amended as follows –

(a) in section 57, –

**(i) by the substitution for the marginal note of the following marginal note –
“Licence to trade in valuable minerals and precious stones.”;**

(ii) in subsections (1), by the substitution for the opening words “Except as otherwise provided in this section”, of the words “Subject to subsections (1A) and 17”;

(iii) by the insertion, immediately after subsection (1), of the following subsections as subsections (1A) and (1B) –

“(1A) All applications for a licence to trade in the valuable mineral gold shall be made in writing to the General Manager of the Guyana Gold Board and the provisions of subsections (2) to (20) shall apply *mutatis mutandis*.

(1B) Where an applicant makes an application to the Commissioner of Geological Surveys and Mines for a licence to trade in more than one valuable mineral or both valuable minerals and precious stones which includes the valuable mineral gold, that applicant shall, in addition to that application, make an application to the General Manager of the Guyana Gold Board to grant the licence to trade in gold.”;

(iv) by the substitution for subsection (3) of the following as subsection (3)-

“(3) The applicant shall deposit with the Commissioner of Geological Surveys and Mines –

(a) where the application is in respect of premises situate in the towns of Georgetown, New Amsterdam or Bartica or within ten miles of these towns-

(i) the sum of two hundred thousand dollars, where the application is in respect of a licence to trade in valuable mineral only;

(ii) the sum of two hundred and twenty-five thousand dollars, where the application is in respect of a licence to trade in precious stones only;

the sum of two hundred and fifty thousand dollars, where the application is in respect of a licence to trade in valuable minerals and precious stones; and

(b) where the application is in respect of a licence to trade in valuable minerals only, precious stones only or in both valuable minerals and precious stones, in premises situate elsewhere in Guyana, the sum of fifty thousand dollars.”;

(v) by the insertion, immediately after subsection (3), of the following subsection (3A) –

“(3A) An applicant may, in lieu of a deposit under subsection (3), deliver to the Commissioner of Geological Surveys and Mines a bond entered into jointly and severally by the applicant and one or more sureties approved by the Commissioner, upon the condition that the applicant shall pay the sum of fifty thousand dollars, one hundred thousand dollars, one hundred and fifty thousand dollars, or two hundred thousand dollars, as the case may be, to the Guyana Geology and

Mines Commission if the applicant, at any time while the applicant is the holder of a licence issued under this section, contravenes any regulations relating to the sale and purchase of, and the duties of traders in, valuable minerals and precious stones under the Mining Act and the Guyana Gold Board Act.”;

Cap. 65:01

Cap. 66:01

- (vi) in subsection (4), by the substitution for the words “subsection (3)”, of the words “subsections (3) and (3A)”;
- (vii) in subsection (5), by the insertion, immediately after the words “subsections (3)”, of the words “, (3A)”;
- (viii) in subsections (6)(b), (10)(b) and (11), by the insertion, immediately after the words “Mining Act”, of the words “and the Guyana Gold Board Act”;
- (ix) by the substitution of subsection (8) of the following as subsection (8) –
 - “(8) Every licence issued under this section shall be an annual licence, and the duty payable on that licence shall be as follows –
 - (a) where the premises licensed is situate in the towns of Georgetown, New Amsterdam and Bartica, or within 10 miles of these towns –
 - (i) the sum of one hundred and fifty thousand dollars, on a licence to trade in valuable minerals only or precious stones only;
 - (ii) the sum of two hundred and fifty thousand dollars, on a licence to trade in both valuable minerals and precious stones;
 - (b) where the premises licensed is situate elsewhere in Guyana –
 - (i) the sum of one hundred thousand dollars, on a licence to trade in valuable minerals only or precious stones only;
 - (ii) the sum of one hundred and fifty thousand dollars, on a licence to trade in both valuable minerals and precious stones.”;
- (x) in subsection 12, by the substitution for the words “subsection (3) or (4)”, of the words “subsections (3A) or (4)”;

- (xi) in subsection (17), by the substitution for the words “the City of Georgetown, the town of New Amsterdam and the village of Bartica, or any place within ten miles of the said city, town or village”, of the words “the towns of Georgetown, New Amsterdam and Bartica, or any place within ten miles of these towns”; and
 - (xii) in subsection (19), by the substitution for the words “subsection (19) shall be liable on summary conviction to a fine of three thousand dollars”, of the words “subsection (18) shall be liable on summary conviction to a fine of three hundred thousand dollars”.
- (b) in section 58 -
- (i) in subsections (1) and (6), by the substitution for the words “Commissioner of Geological Survey and Mines”, of the words “General Manager of the Guyana Gold Board”, wherever they appears;
 - (ii) in subsection (3), by the substitution for the words “one thousand dollars”, of the words “fifty thousand dollars”;
 - (iii) in subsection (4), by the insertion, immediately after the words “Mining Act”, of the words “and the Guyana Gold Board Act”; and
 - (v) in subsection (6)(d), by the substitution for the words “the name and address”, of the words “the name, address and national identification number”.

EXPLANATORY MEMORANDUM

The Guyana Gold Board (Amendment) Bill 2019 seeks to amend the Guyana Gold Board Act, Cap. 66:01 and certain provisions of the Tax Act, Cap 80:01 in an effort to strengthen the regulating regime of the gold trade.

Clause 2 of the Bill inserts a new definition for the term “Gold Trade Officer” designated in accordance with the new **section 12A** inserted by **clause 7** of the Bill, and who will have such functions and exercise such powers as may be assigned by the Minister, the

Board or the General Manager of the Board for the purpose of carrying out the provisions of the Act.

Clause 3 of the Bill amends section 6 of the Act to extend the period within which a producer must sell to the Guyana Gold Board any quantity of gold in his possession any time before the coming into operation of the Guyana Gold Board (Amendment) Act 2019 from twenty-eight days to seventy-five days. Further, the amendment also extends the period within which a producer, who wins or obtains gold during operations as a producer, must sell that gold after it has been won or obtained from twenty-eight days to seventy-five days.

Clause 4 of the Bill amends the Act by substituting section 7 for a new section 7. The section will now provide that a person, who is not a producer, who has a quantity of gold exceeding one ounce must sell that gold to the Gold Board or a duly authorised agent of the Board within seventy-five days of the coming into operation of this amendment. The amendment will not apply to a duly registered gold smith or a duly registered dentist nor will it apply to a person who is in transit in Guyana and has in his possession gold that was not obtained in Guyana, the burden of proof in that regard, being on the person who has the gold in his possession.

Clause 5 of the Bill seeks to amend section 9 (2) (a) of the Act by increasing the number of days within which a person licensed to sell, barter, or expose for sale goods at any place in the mining district under the Tax Act, Cap. 80:01, must inform the Board where that person advances money or supplies goods on credit to a miner in consideration of payment being made therefor with gold won or obtained in the course of prospecting for or exploiting and processing gold, from ten to fourteen days.

Clause 6 seeks to insert a new section 9B into the Act. This section will provide for the making of a special application to export doré bars, or a quantity of gold, which does not exceed two thousand ounces in a prescribed manner to the Board which grants that application subject to the conditions the Board thinks fit. The fit and proper criteria in section 9A, as inserted by the Anti-Money Laundering and Countering the Financing of Terrorism (Amendment) Act No.17 of 2018, will apply *mutatis mutandis* to section 9B in relation to the considerations the Board must make in granting or refusing an application under section 9B.

Clause 8 amends section 23 to provide for the imposition of higher fines of one million and three million dollars and imprisonment for a term of five years as a penalty for the commission of an offence under the Act. In addition to that penalty, the gold of a person who, on summary conviction, is found to have committed an offence under the Act may be forfeited, in relation to that offence. However, the amendment also provides that any gold forfeited may be recovered through summary proceedings.

Clause 9 seeks to amend sections 57 and 58 of the Tax Act, Cap. 80:01. The amendment to Section 57 includes the insertion of a new subsection (1A) to provide for the making of all applications for the trade in the valuable mineral gold to be made to the General Manager of the Guyana Gold Board while the application to trade in all other valuable mineral and precious stones will continue to be made to Commissioner of Geological Surveys and Mines. Section 57 was also amended to substitute subsection (3) for a new subsection (3) and to insert a new subsection (3A) to provide for an increase in the deposit which must accompany the application to trade in valuable minerals or precious stones and where a bond is entered into in lieu of that deposit, an increase in the sum payable if that bond if an applicant does not honour his obligations under the bond. If the premises of the applicant is situate in Georgetown, New Amsterdam or Bartica the deposit will increase from –

- (a)** five thousand dollars to two hundred thousand dollars to trade in valuable minerals only;
- (b)** ten thousand dollars to two hundred and twenty five thousand dollars to trade in precious stones only; and
- (c)** fifteen thousand dollars to two hundred and fifty thousand dollars to trade in both valuable minerals and precious stones.

Further, if the applicant's premises is elsewhere, from two thousand five hundred dollars to fifty thousand dollars.

In relation to the sum to be paid by an applicant who delivers a bond in lieu of a deposit if that applicant does not honour his obligation under the bond, that applicant will now be required to pay an increased sum of ten, thirty, forty or fifty thousand dollars as the case.

Further, the amendment to section 57(8) also provides for an increase in the duty payable on the licences issues under section 57(1) and the newly inserted (1A) –

- (a)** if the applicant's premises is situate in the towns of Georgetown, New Amsterdam or Bartica –
 - (i)** from five hundred dollars and one thousand dollars to one hundred and fifty thousand dollars to trade in valuable minerals only or precious stones only; and
 - (ii)** from one thousand five hundred dollars to two hundred and fifty thousand dollars to trade in both valuable minerals and precious stones;
- (b)** if the applicant's premises is situate elsewhere –
 - (i)** from five thousand dollars to one hundred thousand dollars to trade in valuable minerals only or precious stones only; and
 - (ii)** from ten thousand dollars to one hundred and fifty thousand dollars to trade in both valuable minerals and precious stones.

Section 57(9) is also amended to increase the fine for which a person may be liable on summary conviction if that person sells or purchases valuable minerals or precious stones

without a licence under section 57(1) or (1A) to trade in that valuable mineral or precious stone from three thousand dollars to three hundred thousand dollars.

The amendment to section 58 will now provide for a gold smith, who desires to purchase gold for the purpose of his business or trade as a goldsmith, to make an application for a licence to do so directly to the General Manager of the Gold Board instead of the Commissioner of Geological Surveys and Mines. And, the duty payable on that licence will be increased from one thousand dollars to fifty thousand dollars.



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Hon. Raphael Trotman, M.P.
Minister of Natural Resources

Dated this 21st day of May, 2019