

**THE OFFICIAL GAZETTE 7TH JUNE, 2005
LEGAL SUPPLEMENT — C**

BILL No. 6 of 2005

Tuesday 7th June, 2005

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

7th June, 2005.

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

L. Coonjah,
for Deputy Clerk of the National Assembly.



GUYANA

BILL No. 6 of 2005

GUYANA ENERGY AGENCY (AMENDMENT) BILL 2005

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of section 2 of the Principal Act.
3. Amendment of section 5B of the Principal Act.
4. Amendment of the Principal Act.

A BILL
Intituled

AN ACT to amend the Guyana Energy Agency Act 1997 to further support the institution and success of prosecutions under the Act and regulations made thereunder.

A.D. 2005

Enacted by the Parliament of Guyana:-

Short title.
No. 31 of
1997.

1. This Act, which amends the Guyana Energy Agency Act 1997, may be cited as the Guyana Energy Agency (Amendment) Act 2005.

Amendment
of section 2
of the
Principal
Act.

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

(a) by the substitution for the definition of "illegal petroleum" of the following definition -

"illegal petroleum" means petroleum and petroleum products imported, stored, offered for sale by or in possession of any person, without a licence or where the petroleum or petroleum products -

(i) do not contain the markers; or

(ii) contain the markers but not in the required proportion;

(b) by the insertion of the following definition in its appropriate alphabetical order -

"markers" means the chemical substances under patent numbers US 5,429,952 and EP 409 842 BI;

(c) in paragraph (b) by the substitution for the word "stream" of the word "steam".

Amendment
of section
5B of the
Principal
Act.

3. Section 5B of the Principal Act is hereby amended in the following respects -

(a) in subsection (1) by the substitution for the words "2003" of the words "2004";

(b) by the substitution for subsection (2) of the following -

“(2) The Agency shall add the markers to petroleum and petroleum products at a concentration determined by the Minister by notice in the Gazette.”;

- (c) in subsections (5) and (7) by the substitution for the word “marker” of the word “markers”;
- (d) in subsection (8) for the words “these Regulations” substitute the words “this Act”;
- (e) in subsection (10) by the substitution for the words “marker is” of the words “markers are” and for the words “is below” of the words “are not in”.

4. The Principal Act is hereby amended by the insertion of the following as Part V with sections 34 to 39, inclusive –

“PART V

Amendment
of the
Principal
Act.

Prosecutions.

34. Prosecutions under this Act shall be instituted and conducted in a court of summary jurisdiction by the Chief Executive Officer, the Deputy Chief Executive Officer or by any other officer of the Agency authorised in writing by the Chief Executive Officer.

Certain
officer to
have powers
of members
of the Police
Force.

35. For the purpose of carrying out their duties under this Act the officers of the Agency mentioned in section 34 shall have the same powers, authorities and privileges as are given by law to members of the Police Force.

Entry of
premises

36.(1) Where a magistrate is satisfied by information on oath that there are reasonable grounds for believing that in any place there is concealed or deposited, stored or sold, any illegal petroleum in respect of which an offence against this Act or the regulations made thereunder has been committed, is planned to be committed or is being committed, he may by warrant under his hand directed to an officer mentioned in section 34, empower such officer –

- (a) at any reasonable time (or, in a situation in which in his opinion this Act or the regulations made thereunder are being contravened or there is an immediate risk that this Act or the regulations made thereunder will be contravened, at any time) to enter property or premises which he has reason to believe it is necessary to enter;
- (b) on entering any premises by virtue of paragraph (a) to take with him –

- (i) any person duly authorised by the Agency;
 - and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) to make such examination and investigation as may in any circumstances be necessary, and direct that those premises or any part of them, or anything should be left undisturbed for so long as is reasonably necessary for such examination or investigation;
- (d) to take such measurements and photographs and make such recordings as he considers necessary, for the purpose of any examination or investigation under paragraph (c);
- (e) to take samples of any petroleum or petroleum products found in or on any premises which he has power to enter;
- (f) in the case of any such petroleum or petroleum products or substance mentioned in paragraph (e) from which samples were taken, to take possession of such petroleum or petroleum products or substances or the samples thereof and detain them for so long as is necessary for all or any of the following purposes namely -
- (i) to examine them and do to them anything which he has power to do;
 - (ii) to ensure they are not tampered with before his examination of them is completed;
 - (iii) to ensure that either the petroleum or petroleum products or samples thereof are available for use as evidence in any proceedings for an offence under this Act or the regulations made thereunder;
- (g) to require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records which it is necessary for him to see for the purpose of an examination or investigation under paragraph (c) and to inspect, and take copies, of any entry in the records;

(h) to require any person to afford him such facilities and assistance within that person's control or in relation to which that person has responsibilities as are necessary to enable him to exercise any of the powers conferred on him by this section.

(2) An officer mentioned in section 34 may in exercise of the power under subsection (1), if compelled by circumstances –

- (a) break open any outer or inner door or wall of such place, and enter therein;
- (b) forcibly enter such place and every part thereof;
- (c) remove by force any obstruction to such entry, search, seizure and removal as he is empowered to effect;
- (d) detain every person found in such place until such place has been searched;
- (e) seize and detain any illegal petroleum found in such place.

(3) Any person claiming the right to enter any premises shall, if required to do so, produce to the owner or occupier of such premises the document authorising him in that behalf.

(4) A person performing his duties under this section shall not be liable in any civil or criminal proceedings for anything done or omitted to be done in the performance thereof if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Authority of
Chief
Executive
Officer;
Deputy
Chief
Executive
Officer.

37.(1) Where the Chief Executive Officer or the Deputy Chief Executive Officer of the Agency is, for reasons to be recorded in writing, satisfied that the investigation is one of great emergency and that in the interest of justice immediate action is necessary and that the delay caused by the time required to apply for and obtain a warrant to enter and search the premises would defeat the purpose of the search, he may enter and search any building or other place, and for that purpose exercise any or all of the powers referred to in section 36 as though empowered by warrant under the hand of a magistrate under section 36.

(2) An officer mentioned in subsection (1) claiming the right to enter any premises shall, if required to do so, produce to the owner or occupier of such premises the document authorising him in that behalf.

Analysts.

38.(1) The Minister may, from time to time, by notification in the Gazette designate any duly qualified officer of the Agency as an Analyst for the purposes of this Act or the regulations made thereunder.

(2) In any prosecution or other proceedings under this Act or the regulations made thereunder a certificate signed or purported to be signed by an Analyst, designated under subsection (1), stating that he has analysed or examined any substance and the result of his analysis or examination, shall be admissible in evidence and shall be prima facie evidence of the statements contained in the certificate and of the authority of the person giving or making the same, without any proof of appointment or designation or signature.

Penalty.

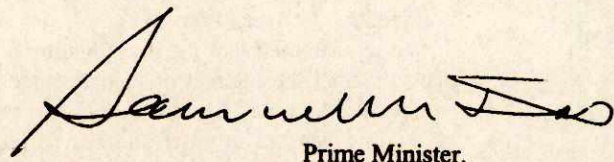
39. Where a person commits a breach of this Act for which no penalty is prescribed, he shall on conviction be liable to a fine of two hundred thousand dollars.”.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Guyana Energy Agency Act No. 31 of 1997 so as to ameliorate the framework for instituting and sustaining prosecutions thereunder.

The Bill seeks to stipulate the approved marker to be used in the fuel marking system administered by the Guyana Energy and to empower the Minister to prescribe the concentration of the markers and designate officers of the Agency as analysis.

The Bill also seeks to empower the officers of the Agency to institute and conduct prosecutions under the Act and to confer on them similar powers and privileges to those given by law to members of the Police Force and immunity in relation to the performance of their duties.



Samuel Hinds

Prime Minister.

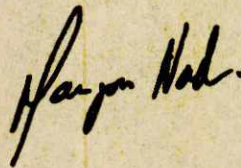
EXPLANATORY MEMORANDUM

This Bill seeks to give effect to the CARICOM Regional Organisation for Standards and Quality Agreement, which was signed on behalf of Guyana on the 4th day of February, 2002.

Clause 3 provides that the Agreement shall have the force of law in Guyana.

Clause 4 provides that where any amendment to the Agreement is accepted by the Government, the Minister shall by order, subject to affirmative resolution of the National Assembly, amend the Schedule accordingly.

Finally clause 5 addresses the Minister's power to make regulations, subject to affirmative resolution of the National Assembly.



Minister of Tourism, Industry and Commerce.

