

**PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana.**

21st June, 1997.

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

F. A. Narain;
Clerk of the National Assembly.



GUYANA

BILL No. 14 of 1997

**FORESTS (EXPLORATORY PERMITS)
(AMENDMENT) BILL 1997**

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. Amendment of section 19 of the Principal Act.

- 5. Amendment of section 20 of the Principal Act.
- 6. Amendment of section 42 of the Principal Act.
- 7. Insertion of Schedule to the Principal Act.

A BILL

Intituled

AN ACT to amend the Forests Act to provide for the grant of exploratory permits and for matters connected therewith.

A. D. 1997 Enacted by the Parliament of Guyana:—

Short title. 1. This Act, which amends the Forests Act, may be cited as the Forests (Exploratory Permits) (Amendment) Act 1997.

Cap. 67:01

Amendment of section 2 of the Principal Act. 2. Section 2 of the Principal Act is hereby amended by the insertion of the following definitions, in the appropriate alphabetical order —

“exploration of State forests” means exploration for the purposes of discovering and evaluating forest produce and includes forest inventories, social and environmental impact assessments and topographic surveys;

“exploratory area” means the area in relation to which an exploratory permit has been granted under this Act;

“exploratory operations” means operations carried out for or in connection with the exploration of State forests;

“exploratory permit” means a permit issued under section 5A to occupy State forests for the purpose of exploratory operations;

Insertion of new section 5A in the Principal Act.

Explonatory Permits.

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

“EXPLORATORY PERMITS

5A.(1) Subject to this Act, the Minister may authorize the Commissioner to grant a permit to any person to occupy any area of State forest for the purpose of exploratory operations without giving such person any exclusive right to occupy the whole or any specified part thereof.

(2) No exploratory permit with respect to any forest produce shall be granted to an applicant unless the Commission is satisfied that the applicant's —

- (a) financial resources, technical competence and experience to carry on effective exploratory operations are adequate;
- (b) programme of exploratory operations is adequate;
- (c) proposals for the employment and training of Guyanese are satisfactory; and
- (d) objectives are compatible with national development objectives.

(3) No exploratory permit shall be granted to an individual unless he is a citizen of Guyana and an adult.

(4) No exploratory permit shall be granted to a body of persons unless it is —

- (a) a company within the meaning of the Companies Act 1991;
- (b) a public corporation;
- (c) a co-operative society registered under the Co-operative Societies Act;
- (d) any other corporate body incorporated in or outside Guyana;
- (e) any organisation established by the Government or by or under any written law capable of carrying on exploration of State Forests:

No. 29 of
1991

Cap. 88:01

Provided that where a permit is granted to two or more persons, the obligations to be observed and performed by the holder of the permit under the Act shall be joint and several, but without prejudice to any right of contribution which may exist between any or all of them, permission may be granted to two or more such persons associated together in any form of joint arrangement.

(5) A person may make an application in the form set out in the Schedule for an exploratory permit.

Schedule.

(6) Without prejudice to the provisions of subsection (5), the Commission may, by notice published in the *Gazette* and in at least one daily newspaper in Guyana invite applications for the grant of an exploratory permit in respect of any area of State forest specified in the notice, specifying in the notice

the period within which the application may be made and the conditions subject to which the application may be made.

(7) An exploratory permit shall be in such form and subject to such general conditions as may be prescribed and to such special conditions as the Commission may deem necessary in the particular case.

(8) An exploratory permit may not confer exclusive rights on the holder of the exploratory permit and such permit may be issued to different persons in relation to the whole or part of the same area.

(9) The Commissioner may require an applicant for an exploratory permit to execute a bond satisfactory to the Commission for the performance and observance by the applicant of the conditions of the permit, upon the issue or renewal thereof, or to make arrangements satisfactory to the Commission for the execution of such bond or to replenish the bond from time to time where it, or any part of it, has been forfeited to pay penalties, fines or compensation, or to remedy damages.

(10) Where there is a breach of this Act or any regulation made thereunder, or where any condition of an exploratory permit is not fulfilled, or any bond has been exhausted, the Commissioner may by notice to the holder of the permit suspend the permit, whereupon it shall cease to be lawful for the holder of the permit to carry out any exploratory operations within the exploratory area.

(11) An exploratory permit shall not be transferred by the holder, being a person, to any other person without the prior consent in writing of the Commission.

(12) A body corporate shall not without the prior consent in writing of the Commission —

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

if the effect of doing so would be to give control of the body corporate to that person or where any such transfer or agreement, arrangement or understanding mentioned in paragraph (a) or (b) is made without the prior consent in writing of the Commission, it shall be void and the Commissioner may by notice to the holder

of the permit suspend the permit upon giving the holder of the permit an opportunity to state his case.

(13) Upon taking action to suspend the permit under subsection (10), the Commissioner shall forthwith make a full report to the President of the circumstances of the suspension of the permit, whereupon the President may order —

- (a) the cancellation of the permit;
- (b) the confirmation of the suspension of the permit for such time he may determine; or
- (c) the withdrawal of the notice of suspension given by the Commissioner:

Provided that no order under paragraph (a) or (b) shall be made without affording any person whose rights under the exploratory permit may thereby be affected an opportunity of stating his case.

(14) In the exercise of his powers under this section, the Minister shall consult with the Commission.

(15) For the avoidance of doubt it is hereby declared that the provisions of this section do not apply to permission to explore for petroleum or to prospect for minerals in State forests and matters connected therewith, in respect of which provision has been made by the Petroleum (Exploration and Production) Act 1986 and the Mining Act 1989.”

4. Section 19 of the Principal Act is hereby amended by the insertion after the words “except in accordance with the terms of a” of the words “permit granted.”.

No. 3 of 1986
No. 20 of 1989

Amendment of section 19 of the Principal Act.

5. Section 20 (1) of the Principal Act is hereby amended as follows —

Amendment of section 20 of the Principal Act.

- (a) by the substitution for the words “lease or timber sales agreement” of the words “exploratory permit, lease or timber sales agreement”, wherever they occur;
- (b) in the proviso, by the substitution for the words “lessee of State forest or a grantee of a timber sales agreement” of the words “holder of an exploratory permit, lessee of State forest or a grantee of a timber sales agreement”.

Amendment of section 42 of the Principal Act.

6. Section 42 of the Principal Act is hereby amended as follows —

- (a) in paragraph (h), by the insertion after the word "lease" of the words "or exploratory permit";
- (b) by the insertion immediately after paragraph (s) of the following paragraph —

"(ss) regulating the manner of the exercise of the rights to which the holder of an exploratory permit is entitled:".

Insertion of Schedule of the Principal Act. Schedule.

7. The Principal Act is hereby amended by the insertion of the Schedule hereto as the Schedule thereto.

"SCHEDULE **s. 5A(5)**

**FORM OF APPLICATION
FOR
STATE FOREST EXPLORATORY PERMIT**

Application No:.....

- (1) Name of Applicant.....
- (2) If application is made by an individual or individuals —
 - (a) Residential Address.....
 - (b) Postal Address (if different).....
 - (c) Nationality.....
 - (d) Occupation.....
 - (e) Financial Status (Applicants are required to provide bankers references and proof of Income Tax registration and payment for the previous five (5) years.)
- (3) If application is made by a body corporate—
 - (a) Address of Registered Office.....

- (b) Date and place of incorporation (Applicants are required to provide a copy of Certificate of Incorporation or or equivalent).....
- (c) Nature of business (Applicants are required to provide copies of Memoranda and Articles of Association or equivalent).....
- (d) Name, addresses and nationality of directors or equivalent officers —

Name	Address	Nationality
.....
.....
.....

- (e) Name, address, nationality and total equity of all shareholders who are beneficial owners of more than five (5) per centum of the issued share capital of the corporation—

Name	Address	Nationality	%Shareholding
.....
.....
.....

- (f) Names and place of registration of all affiliated companies or other business entities, where parent or subsidiary operations —

Name	Place of Registration	Relationship
.....
.....
.....

- (g) Financial Status (Applicants are required to provide audited accounts for the previous five (5) years of operation and, in the case of companies incorporated in Guyana proof of Corporation Tax, registration and payment over the five (5) years).

- (4) Identify the exploratory area in respect of which application is made (map or plan to be attached unless the area is bounded by creeks, or otherwise well-defined boundaries, or the boundaries of which are otherwise well marked).
.....
- (5) Date from which permit is sought.....
- (6) Full particulars of technical competence and previous experience in forest exploration and production operations (Applicants are required to provide a detailed record of their exploration and production experience in Guyana and elsewhere).
.....
- (7) Names and qualifications of technical experts, consultants and/or advisors
.....
- (8) State Amount of capital (funds, equipment, etc.) for proposed exploratory operations—
 - (a) Capital available at present.....
 - (b) Additional capital which is available and the source of this capital.....
.....
- (9) Application shall be accompanied by a fee of US\$.....and the following information —
 - (a) details of the type of forest investment in which the applicant is interested, including identification of the forest produce to be harvested, scale of harvesting operations, scale and location of primary, secondary and tertiary processing activities and marketing proposals;
 - (b) details of the research carried out by the company in relation to the proposed investment based on available data of published information.
 - (c) particulars of work and minimum expenditure proposed to be carried out or expended in respect of the exploration area for which the exploratory permit is sought;
 - (d) a statement of the applicant's recruitment, human resource development and severance policies and practices

and the applicant's proposals for employing and training citizens of Guyana;

- (e) particulars of the applicant's social policy, environmental policy and policy towards nationals;
- (f) any other particulars required by the Forest Regulations;
- (g) any other matters which the applicant wishes the Commission to consider.

I/WE DECLARE that the foregoing particulars and accompanying information are true and correct—

Signed.....

Date.....Signed.....

(If the applicant is a body corporate state name of signatory or signatories, capacity in which form is signed and affix company seal if required)."

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Forests Act, Cap. 67:01. It provides for the inclusion of a procedure for the grant of exploratory permits,

Clause 2 includes new definitions to assist in the interpretation of this Bill,

Clause 3 provides for the insertion of a new section 5A under which the Minister may authorise the Commissioner to grant a permit to any person to occupy any area of state forests for the purpose of exploratory operations without giving such persons any exclusive right to occupy the whole or any specified part thereof. The new section outlines the conditions and applicant must satisfy to be granted an exploratory permit. Subsection (5) provides for the exploratory permit to be in the form as set out in the Schedule. Subsection (6) empowers the Commission by notice published in the Gazette and at least one daily newspaper to invite applications for the grant of an exploratory permit in respect of any area of State forest specified in the notice. Under subsection (7), the Commission, in addition to the general conditions prescribed by the Act, may impose special conditions as they deem necessary in any particular case. Subsection (9) requires an applicant to execute a bond satisfactory to the Commission for the performance and observance of the conditions of the permit, or to make satisfactory arrangements for the execution of such bond or to replenish the bond where an amount has been forfeited. Subsection (10) provides that in specified circumstances the Commissioner may by notice to the holder suspend the permit. Subsections (11) and (12) state that permit holders may not transfer their interest without the prior consent in writing of the Com-

mission. If the Commissioner takes action to suspend the permit under subsection (13), he must make a full report to the President of the circumstances of the suspension. The President may then order the cancellation of the permit, the confirmation of the suspension for such time as he may determine or withdrawal of the notice of suspension.

Satyadeow Sawh;
Minister within the Ministry
of Agriculture.