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LEGAL SUPPLEMENT – C

BILL No. 21 of 2007

Tuesday 24th July, 2007

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

24th January, 2007.

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

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



GUYANA

BILL No. 21 of 2007

FOREST BILL 2007

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A BILL
Intituled

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

A.D. 2007

Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Forests Act 2007 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 Community" 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. of 2007

"Commission" means the Guyana Forestry Commission established by the Guyana Forestry Commission Act 2007;

No. 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

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(b) includes -

- (i) any conviction for an offence; and
- (ii) any evidence that the person has committed an offence;

"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 injure;

"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;

"Environmental Protection Agency" means the Environmental Protection Agency established by the Environmental Protection Act 1996;

No. 11 of 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;

“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-stuffa, dye-stuffa, 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 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;

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

No. 7 of 1996

"Kaieteur National Park" means the Kaieteur National Park constituted by the Kaieteur National Park Act.

Cap. 20:02

"manage", in relation to any forest, includes carrying out forest operations in or in relation to the forest;

"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.

and "public notice" has a corresponding meaning;

"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;

"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);

- (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 Community under custom 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.

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

"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;

"Village lands" has the meaning given to it by section 2 of the Amerindian Act 2006.

No. 6 of 2006

Declaration of State forest.

3. (1) The Minister may, by public notice, make an order declaring any area of public 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) Village lands;
 - (b) Jwokrama Rainforest; or
 - (c) Kaieteur National Park.

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.

No. of 2007

Restriction of activities in State forest.

5. (1) Except in accordance with subsection (2), no person shall -
- (a) enter a State forest;
 - (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;

(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) On application made by the holder of a concession no later than 3 months before expiry of the forest concession agreement concerned, the Commission may renew that concession on any conditions it 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 8047 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 at a reasonable price copies of all documents in its possession concerning the forest produce and other features of the area that the Commission considers relevant to the concession of the area.

**Grant or renewal of
larger concessions.**

8. (1) No concession may be granted or renewed over an area of State forest larger than 8047 hectares, except -

- (a) on application by the holder of an exploratory permit, under section 9(10); or
- (b) on application by a reputable person (including any duly constituted local or international environmental non-governmental organisation) 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 8047 hectares except -

- (a) after the Commission has approved a forest management plan 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 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 at a reasonable price 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 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 the applicant is offering to pay for the exploratory permit.

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

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

(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) No exploratory permit may 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.

(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

No. 20 of 1989

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 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, camping and hunting;
- (d) taking any photograph or making any film or video or sound recording;
- (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 the earlier of -

- (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.

11. (1) In this section, "community group" means -

- (a) a registered community forestry organization;
- (b) a registered society as defined by section 2 of the Co-

- operative Societies Act; or
- Cap. 88:01 (c) a registered society as defined by section 2 of the Friendly Societies Act.
- Cap. 36:04

(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 a legally binding 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 may on application grant any person an afforestation agreement by entering into a legally binding 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), the Commission may require the holder of any State forest authorisation (other than a community forest management agreement), upon the grant or renewal of the authorisation, -

- (a) to execute and pay a bond as security for -
 - (i) the performance and observance of the

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(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 fund from time to time if the fund or any part of it is depleted.

(2) The fund 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 the waiver and the Commission's reasons for it.

(3) The Commission may forfeit a fund or any part of it in respect of any matter specified in subsection (1)(a).

Characteristics of
State forest
authorisations.

14. (1) A State forest authorisation over an area -
- (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 sections 8(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 (whether of the same or 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 ownership, partnership, or other arrangement under this Act.

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.

(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

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 -

- (a) applies to any act, omission, or occurrence within or outside Guyana; and
- (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).

No. 29 of 1991

No. 21 of 1998

Occupational safety and health.

No. 32 of 1997

Suspension, amendment, and revocation of State forest authorisation.

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.

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

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;
- (b) a reasonable opportunity to be heard; and
- (c) in the case of an authorisation in respect of an area larger than 8047 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 irremediable 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 may, if it thinks fit, 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.

forest authorisation by agreement. 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 may -

- (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; or
- (b) Kaieteur National Park.

Conservation and protection of State Forests

Specialty 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

specialy 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) if it determines that there is sufficient public interest, hold a public hearing to discuss the proposed order and receive oral 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 at a reasonable price, 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.

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- (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 police constable 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

nearest available forest officer or police constable 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.

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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.

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 any written law.

**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 reasonable 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 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.

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**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) if the Minister considers it necessary, hold a public hearing 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 at a reasonable price -

(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 at a reasonable price.

(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.

(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;

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) No person shall import into or convey within Guyana any forest produce that has been unlawfully obtained in or unlawfully exported from any country.
- (2) 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 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 at a reasonable price.

(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.

(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.

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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

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the Guyana National Bureau of Standards Act 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 Marketing Council, 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 Marketing Council) 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 on any conditions it thinks fit.

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(8).

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 trade secrets, 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) may at any time, after being afforded natural justice, be removed from office at the discretion of the Commissioner;

(b) may resign 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, when authorised by a forest officer, 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 seizeable 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.

(3) Except as provided in subsections (4) and (5), all things seized under this section shall be 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.

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. 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.

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 a complaint in writing 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 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 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

Offences and Penalties

- Obstructing
Commissioner 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 areas);
 - (v) section 30(3) (protection of trees and plant species);
 - (vi) section 31(4) (forest conservation areas as

- (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(1) (imported forest produce);
 - (vii) section 58(5) or (7) (power to seize);
 - (viii) section 66(1)(a), (c), (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 2 years 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.

(5) Subsection (3) has effect notwithstanding section 6 of the Summary Jurisdiction (Procedure) Act.

Cap. 10:02

Penalties.

70. (1) Every person who commits an offence against section 68(a) is

- Schedule I (a) in the case of an individual, to the penalties specified for a Class 1 offence in **Schedule 1**; and
- Schedule I (b) in the case of a body corporate, to 10 times the fine specified for a Class 1 offence in **Schedule 1**.

Schedule I (2) Every person who commits an offence against **section 68(b)** is liable on conviction -

- Schedule I (a) in the case of an individual, to the penalties specified for a Class 2 offence in **Schedule 1**; and
- Schedule I (b) in the case of a body corporate, to 10 times the fine specified for a Class 2 offence in **Schedule 1**.

Schedule I (3) Every person who commits an offence against **section 68(c)** is liable on conviction -

- Schedule I (a) in the case of an individual, to the penalties specified for a Class 3 offence in **Schedule 1**; and
- Schedule I (b) in the case of a body corporate, to 10 times the fine specified for a Class 3 offence in **Schedule 1**.

Schedule I (4) Each fine in **Schedule 1** is subject to increases and reductions in accordance with that schedule.

Schedule I (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

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- (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.

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. In no case whatsoever is the Commission 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 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 -

(a) a licence for petroleum prospecting or production

No. 3 of 1986

under the Petroleum (Exploration and Production) Act 1986;

No. 20 of 1989

(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;
- (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)(l), 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.

Cap. 67:04

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

- (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**.

(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.

No. 11 of 1984

Transitional provisions relating to permits etc. under repealed Acts.

Cap. 67:01

Cap. 67:01

Cap. 67:01

Cap. 67:01

Cap. 67:01

Cap. 69:07

Cap. 67:04

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

PENALTIES FOR OFFENCES

Sections 70 and 81(1)(l)

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.

SCHEDULE 2
CONSEQUENTIAL AMENDMENTS

Section 82

Act or Regulations	Provision amended	Amendments
State Lands Act (Cap. 62: 01)	Section 2	Insert, after the definition of "officer", the following definition - "State land" excludes any land in a State forest (as defined by section 2 of the Forests Act No. of 2006 2006)".
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- "(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 No. of 2006 2006."
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 - "(ba) holds a licence or removal permit under the Forests Act 2006 to take the substance or thing from or off the lands;" 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 67(2) of the Forests Act 2006, for an offence against section 65(b) of that Act”.</p> <p>2. Substitute, for the words “officer of the Lands Department”, the words “forest officer appointed under the Forests Act 2006”.</p>

SCHEDULE 3

REPEALED ACTS

Section B3

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*)**

EXPLANATORY MEMORANDUM

This Bill seeks to consolidate and amend the law on forests.

This Bill is divided into 7 Parts and 3 Schedules.

Part 1 (Preliminary) sets out the short title, provides for the Act to come into operation on a date set by Ministerial order, and defines expressions used throughout the Act. It also provides for the Minister to declare any area of public land to be a State forest.

Part 2 (Sustainable Forest Management of State Forests) sets out a permitting regime for State forests in order to provide for sustainable forest management of State forests.

Under **Part 2**, people will need to obtain a State forest authorisation from the Guyana Forestry Commission in order to carry out activities such as entering State forests, or taking forest produce or occupying land in State forests, unless they are exercising a right, power, duty, or privilege under any written law, or under Amerindian custom.

Part 2 provides for 5 types of State forest authorisations: concessions, exploratory permits, use permits, community forest management agreements, and afforestation agreements. Regulations will prescribe matters such as the form and content of applications, qualifications, restrictions, criteria to be considered, and conditions for each type of authorisation.

The Commission can require a security bond to be paid upon the grant or renewal of any State forest authorisation (except a community forest management agreement). A bond is generally mandatory in the case of concessions and exploratory permits.

Other provisions of **Part 2** deal with:

- (a) features of State forest authorisations;
- (b) joint holders of a State forest authorisation;
- (c) compliance with occupational safety and health requirements;
- (d) amendment, suspension, revocation, surrender, and transfer of a State forest authorisation, and restrictions on changes in the effective control of a holder; and
- (e) removal of property brought onto land under a State forest authorisation.

Part 3 (Forest Conservation) is aimed at protecting and conserving forests. This Part -

- (a) provides for the Environmental Protection Agency to declare specially protected areas within State forests;

- (b) prohibits acts that could cause fires in State forests;
- (c) allows the Commission to declare any area of State forest, and any area of land within 1.6 kilometres of that area, a fire protection area;
- (d) provides for controlled burning by forest officers;
- (e) imposes on certain persons a duty to report fires and to put out fires;
- (f) allows forest officers to require persons to assist in extinguishing a fire in a State forest;
- (g) allows the Minister to make an order to protect any tree or plant species, declare any private land to be a forest conservation area, or apply any provision of this Act to private land;
- (h) allows the Commission to direct persons to reverse, rectify, or discontinue an introduction of species, a condition, or an activity that brings risk of disease, pestilence, or other harm to any forest.

Part 4 (Forest Operations And Activities Relating to Forest Produce) regulates forest operations, other activities relating to forest produce, and quality control of value-added forest produce.

It provides for the Minister to adopt legally binding codes of practice that can be amended from time to time.

It also bans —

- (a) importation and conveyance of unlawfully obtained or unlawfully exported forest produce;
- (b) underpricing of forest produce for export;
- (c) selling of timber as seasoned or graded timber, except timber graded and marked in accordance with the Commission's guidelines; and
- (d) certification of forest produce as complying with any international standard for export from Guyana, except by persons accredited by the Guyana National Bureau of Standards.

Part 4 also requires a permit, licence, or certificate from the Commission in order to —

- (a) remove or convey forest produce;
- (b) build, relocate, alter, or operate a primary conversion plant;
- (c) use any premises as a lumber yard;
- (d) run a business purchasing forest produce for resale; or
- (e) export forest produce.

Part 5 (Forest Information) requires the Commission to inspect State forests from time to time to monitor compliance with the Act, keep public registers prescribed by regulations, and provide information when authorised or required to do so.

The Commission can require any person to provide information, can convene hearings and inquiries, and can require holders of State forest authorisations, permits, licences, or certificates to bring specified matters to the notice of the Commission.

Part 5 also requires the Commission, on application in writing, to make available any information held by the Commission, except trade secrets, commercial-in-confidence information, commercially sensitive information, and information likely to prejudice the security of Guyana.

Part 6 (Administration) provides for the Commissioner of Forests to appoint forest officers, and gives forest officers powers of entry, search, and seizure. Forest officers can also order persons to produce an authorisation for acts that require an authorisation under the Act, and can require any person found in possession of forest produce to answer questions and make a signed statement. Obstruction of a forest officer will be an offence.

Holders are also required to comply with the conditions of a State forest authorisation, permit, licence, or certificate.

Part 6 also deals with prosecutions and sets out offences and penalties.

Part 7 (Miscellaneous) sets out miscellaneous provisions. It -

- (a) deals with ownership of forest produce;
- (b) allows the Commission to licence the taking of timber on unallocated public land outside State forests;
- (c) allows the Commission to charge interest on moneys owing under the Act;
- (d) makes it clear that the Commission is not obliged to grant, issue, or renew any State forest authorisation, permit, licence, or certificate;
- (e) allows the Minister, by order subject to affirmative resolution of the National Assembly, to specify exemptions from any provision of the Act;
- (f) protects from liability any person carrying out functions under the Act or acting in compliance with a direction or order made under the Act;
- (g) allows the Minister to make regulations to impose a range of fees, charges, and levies, and for other purposes related to the Act; and
- (h) applies the Act to the State.

Part 7 also clarifies the relationship of the Act to other legislation, such as the Environmental Protection Act. For example, the Commission must be consulted before any person issues or grants a lease, licence, permission, or other authorisation to carry out activities in a State forest.

Part 7 amends or repeals various forestry-related legislation, but saves -

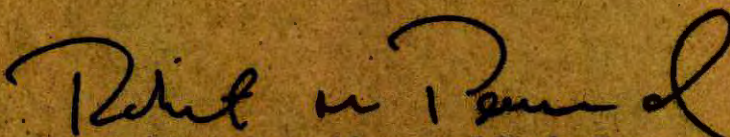
- (a) several types of permits, leases, licences, agreements, permissions, orders, and regulations issued or made under repealed legislation of the State Lands Act;
- (b) the appointment of existing forest officers; and
- (c) references to the former Forests Act.

Transitional provisions in Part 7 also allow holders of a sawmill licence or a timber dealer's licence under the previous Forests Act to operate for a transitional period of 6 months before they are required to obtain a lumber yard licence under the new Act.

Schedule 1 sets out maximum penalties for offences against the Act, with a provision for increases and reductions to maximum fines by reference to the consumer price index for previous years.

Schedule 2 sets out amendments to several Acts and regulations.

Schedule 3 lists the Acts to be repealed.


Minister of Agriculture with responsibility for Forestry