

Ten-day workshop on legislative drafting for democratic social change: Guyana, January 13-24 2003

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Re corruption -
see p-4, pp 6 ff

Ann's copy

Part II
Forest Estate

Declaration
of State Forest

4. (1) The Minister may declare any area of public land in Guyana to be State Forest, where the Commission considers this to be expedient. This order may vary or ~~revoice~~ from time to time, and ~~must be published~~ ^{shall} in the Gazette and at least once in a daily newspaper. ^{The Minister may revise} ^{the revisions}

(2) All orders declaring areas of State land to be State forests made by the Minister under the former Act ^{remain} are valid and in force immediately before the commencement of this Act.

(3) Areas declared to be State forest ^{shall} excludes Amerindian land and private land.

Ownership of
Forest produce

5. (1) All forest produce which originate on public land is the property of the State, until the rights to such forest produce have been specifically disposed of in accordance with the provisions of this Act, or any other written law.

(2) All timber found adrift, beached, stranded or sunk, and not correctly marked in accordance with this Act is deemed to be the property of the State until the contrary is proved.

Codes of
practice

6. (1) The Commissioner may prepare codes of practice containing guidelines for forest operations. This code of practice may be revised in such manner as the Board sees fit. ^(The Board may revise) ^{with reasons?}

(2) The Commissioner shall publicize code of practice, so that comments and advice can be solicited from persons who has a specific interest in the management of forest resources, and may make changes as deemed necessary. Publication of reasons for accepting or rejecting inputs

(3) The Commission shall submit to the Minister, the code of practice or the revised code of practice for adoption. After which it shall be published in the Gazette and at least one daily newspaper for sale at a fixed price.

using what
criteria?
procedures?

how?

Should GPC
submit codes to
Parliament (so may
vote them if so
how?)

What detailed
characteristics
most codes
include?
What procedure
should be used
in deciding the
details?

Part III
Forest Conservation and Protection.

8. (1) A person may not, without the prior consent of the Commission -
- a) cut, fell, lop, damage or remove forest produce;
 - b) clear, cultivate or turn the soil; or
 - c) graze or pasture any livestock,

within a state forest.

- (2) The Commission may by Order published in the *Gazette*, prohibit the disturbance of the soil, vegetation, river, or creek in a designated area for a period not exceeding twenty five years where it is necessary to protect the forest from activities likely to cause damage to the soil or water resources.

- (3) The Commissioner shall not less than forty five days before making the order

- a) give notice of the proposed Order in at least one daily newspaper in general circulation in Guyana and other publications the Commission considers necessary to bring it to the attention of the persons whose interests are affected; and
- b) receive written representations from interested persons not less than thirty days from the date of publication of the draft Order in the daily newspaper and, if he determines that there is sufficient public interest, hold a public hearing to discuss the Order and receive oral comments.

Can you specify criteria for "sufficient public interest"?

(4) Before the Commission makes the Order the Board shall consider the objections of interested persons.

and state reasons for accepting or rejecting them?

9. (1) ~~Before~~ ^{may not} a person lights an outdoor fire in an area designated by the Commission, by Order published in the Gazette, as and ~~an~~ area of state forest, a forest

^{unless the Forestry Commission has} officer ~~shall~~ issue an authorised fire permit to that person. *on what grounds?*

(2) Subject to subsection 9(3) a person may not in a state forest throw down a lighted match or lighted or inflammable material or do anything which may burn or endanger a state forest or a forest produce.

Any sanctions?

(3) Notwithstanding subsection 9(2) a forest officer may burn or direct another person to burn fire lines or grass or other inflammable material if it is necessary for the better protection or management of a state forest.

10. (1) The Commissioner, a forest officer or peace officer may require a person who is within a reasonable distance of a state forest to assist in averting or extinguishing a fire or in securing a property from loss or damage within the forest.

(2) The Commission shall pay compensation from monies of the Commission at a rate the Board determines, to a person who assists a peace officer or forest officer in extinguishing a fire.

(3) If a person who assists in averting or extinguishing a fire sustains bodily injury and becomes temporarily incapable of work, or is permanently disabled (totally or partially), or dies because of the injury, that person is an insured person and the injury is

caused by an accident arising in the course of his insurable employment for the National Insurance and Social Security Act.

12. (1) The Commissioner may enter into a forestation agreement with a person, including a community forest management group, for the planting of forests on land in a state forest or on another land which the Commission or the other person is entitled to use for that purpose.

(2) ~~By a forestation agreement~~ the contractor shall plant forest species as specified in ^{an agreement in} the agreement and manage the forest plantation in accordance with a ~~sustainable management plan approved by the Commissioner.~~

(3) ~~By a forestation agreement~~ the contractor shall have the right to harvest forest produce in accordance with the terms of the agreement.

(4) By the terms of a forestation agreement the Commission may provide for advice and technical assistance in planting and managing the forest.

What criteria will Commission publish proposed terms of the agreement for notice & comment by other stakeholders?

Where does the Act ~~is~~ define a "Sustainable Management Plan"? ~~specified~~? How ~~is it~~ does the Commission agree on that plan? What characteristics must the Commission include in the Plan?

Part IV

Sustainable Utilisation of Forest Resources.

Draft in perspective

13. A person may ~~not~~ enter a state forest and carry out any exploratory operations or appropriate forest produce, or occupy land in or use an area of state forest ~~unless under-~~ *only if the person has GFC was granted that person*

- a) an exploratory permit, a forest concession agreement, a forest licence or a use permit, or other right power or duty;
- b) an exploratory permit, state forest permission, wood cutting lease, timber sales agreement, lease, licence or permission or an authorisation granted under the former Act, the State Lands Act and subsisting on the commencement of this Act.

14. (1) The Commission may not grant an exploratory permit, forest concession agreement or forest licence to an individual who is not an adult citizen of Guyana.

on which grounds may GFC grant permits etc?-

(2) The Commission may not grant an exploratory permit to a person unless that person is-

- a) a company within the meaning of the Companies Act, 1991;
- b) a public cooperation;
- c) a cooperative society registered under the Cooperative Societies Act;
- d) a corporate body incorporated in or outside Guyana,...

Explain in Solution Part of Research Report: Why some funds go to Commission some to Consolidated Fund

Part VII Forest Charges

and spell out reasons for criteria proposed

how determined? by what criteria?

Concession Premiums 44. (1) A concession premium must be paid upon the application or tender for an exploratory permit based on estimated value for the exclusive right to an area of land for the harvesting of forest produce.

(2) All revenues derived from concession premiums are payable into the Consolidated Fund.

Annual Management Fees 45. (1) The Minister may prescribe the rate for annual Management fees, exploratory permit, forest concession agreement or forest licence. This must be published in the Gazette.

on what grounds? what procedures used?

by whom?

(2) The Minister shall have regard to the full annual economic cost of forest management in relation to the area covered by the exploratory permit, forest concession agreement, or forest licence when setting annual management fees.

(3) All revenues derived from annual management fees are payable into the general revenues of the Commission.

(4) The Board may award a discount for annual management fees payable in respect of forest agreement or forest licence for voluntary compliance with good sustainable management practice.

Volume Charges on Forest Produce 46. (1) Every person who cuts or removes any forest produce from state forest pursuant to an exploratory permit, forest concession agreement, forest licence, use permit or community forest management agreement, shall pay such charges to the Commission.

(2) The Commission shall set charges for forest produce at rates based on volume cut, counted, measured or weighted for the purpose of internal transport, processing or export.

(3) The Commissioner, or Officers authorised by the Commissioner shall count, measure or weight forest produce for which charges are payable.

(4) All revenues derived from volume charges on forest produce are payable into the Consolidated Fund after deducting payments made to the Commission's authorised agents.

What criteria? procedures? how relate to taxes?

Levies on
Forest
Produce

no limits?

47. (1) The Minister may impose a surcharge levy on forest produce harvested and removed from State forest, or exported from Guyana in order to encourage sustainable forest management based on the advice of the Commission. Such levy maybe altered or removed as the Minister sees fit. The Minister may also order the publication of such levy in the Gazette.

(2) All revenues derived from levy on forest produce are payable into the general revenues of the Commission. *(why not contribute to fund?)*

User
Fees

48. (1) The Minister shall charge a User Fee for the different classes of user permit. Based on advice of the Commission. This must be published in the Gazette. *- with reasons? on what basis? criteria?*

(2) All revenues derived from User are payable into the general revenues of the Commission. *Why not contribute to fund?*

Administrative
Fee

49. (1) A non-refundable administrative fee is chargeable for processing of application made to the Commission for exploratory permit, forest concession agreement, forest licence and use permit at rates prescribed by the Commission by notice published in the Gazette.

(2) All revenues derived from administrative fee are payable into the general revenues of the Commission. *?*

Fines

50. (1) Fines are payable in respect of offences at specified rates.

*what offences?
how determine
specified rates*

(2) The Minister may amend this Act upon the advice from the Commission, subject to negative resolution of Parliament.

Payment in
freely usable
currencies

51. (1) The Minister may direct that a person request under this Part to pay a concession premium, annual management fees, volume charges or levy on forest produce or user fee, shall do so in a freely usable currency that the Minister directs. Such sum maybe paid either in the specified currency or the equivalent amount of Guyana dollars, determined at the official selling rate for the specified currency on the date when payment is due.

*How determine
in need?
(explanation
why in
R.R.)*

(2) The Minister may direct that levy on export of forest produce be paid in a freely usable currency.

(3) Freely usable currencies means the European Community Euro, the Japanese Yen, the Pound Sterling, the United States dollar and any other currency which has been designated by a competent internal monetary organisation as being acceptably used to make payments for international transactions in the exchange market.

Indexation

52. (1) The Minister may establish a multiplier for volume charges and levies on forest produce and administrative fees payable based on the rate of inflation in Guyana, upon the commencement of this Act. This should be done once in every calendar year and must be published in the Gazette.

Interest

Payable on

Arrears

53. (1) Where concession premium, annual management fee, volume charge or levy on forest produce, user fee, administrative fee, or other charge, payable into the Consolidated Fund or into the revenues of the Commission, remains unpaid after the due date, the Commission may charge interest on the unpaid sum from the due date to the date of payment at a rate specified by the Minister.

Who will audit books? How?

Recommend: That an expert on forestry charges — how levied, collected, and allocated in interests of Guyanese public — be invited to recommend detailed criteria and procedures