

LAWS OF GUYANA

ENVIRONMENTAL PROTECTION ACT

CHAPTER 20:05

Act
11 of 1996
Amended by

17 of 2005

Current Authorised Pages

<i>Pages (inclusive)</i>	<i>Authorised by L.R.O.</i>
1 - 197 ...	1/2012

**Index
of
Subsidiary Legislation**

	Page
Environmental Protection (Water Quality) Regulations (Reg. 6/2000)	88
Environmental Protection (Hazardous Waste Management) Regulations (Reg. 7/2000, 13/2005)	107
Environmental Protection (Noise Management) Regulations (Reg. 8/2000)	139
Environmental Protection (Air Quality) Regulations (Reg. 9/2000)	155
Environmental Protection (Authorisation) Regulations (Reg. 10/2000, 14/2005)	171

Note

At the time of this publication the Species Protection Regulation of 1999 is being revised and is therefore omitted from this publication.

CHAPTER 20:05

ENVIRONMENTAL PROTECTION ACT

ARRANGEMENT OF SECTIONS

SECTION

**PART I
PRELIMINARY**

1. Short title.
2. Interpretation.

**PART II
ESTABLISHMENT AND FUNCTIONS OF AGENCY**

3. Establishment of Agency.
4. Functions of Agency.
5. Deference to authority of Agency.

**PART III
ADMINISTRATION**

6. Appointments, remuneration.
7. Delegation of authority by Agency.
8. Directions by Minister.
9. Delegation of power by Minister.

**PART IV
ENVIRONMENTAL IMPACT ASSESSMENTS**

10. Preliminary.
11. Requirement for environmental impact assessment.
12. Approval or rejection of project.
13. Environmental permit.
14. Environmental authorisation as a precondition to development consent.

SECTION

15. Cessation.
16. Regulations to determine projects affecting the environment.
17. Other activities.
18. Environmental Assessment Board.

**PART V
PREVENTION AND CONTROL OF POLLUTION**

19. Prevention of pollution.
20. Information on pollution control facility.
21. Permits: general provisions.
22. Prescribed processes.
23. Conditions of permits and licences.
24. Alteration or transfer of permitted processes.
25. Revocation or variation of prescribed process; cancellation or suspension of environmental authorisation.
26. Enforcement notices.
27. Prohibition notices.
28. Appeals.
29. Environmental Appeals Tribunal.

**PART VI
FINANCIAL ASSURANCE**

30. Preliminary.
31. Financial assurance.

**PART VII
INVESTIGATIONS, PROSECUTIONS, CIVIL PROCEEDINGS**

32. Prosecutions.
33. General offences.
34. Certain specific offences.
35. Powers of authorised persons.
36. Registers of information.

SECTION

37. Investigation of offences.
38. Obstruction of authorised persons.
39. Damage to environment.
40. Continuing offences.
41. Offences by bodies corporate.
42. Proof of offences.
43. Orders of court.
44. Additional fine.
45. Compensation for loss of property.
46. Fixed penalties.
47. Injunction.
48. Civil proceedings.
49. Other proceedings and remedies not affected.
50. Protection of officers of Agency.

PART VIII

**ESTABLISHMENT AND JURISDICTION OF ENVIRONMENTAL
APPEALS TRIBUNAL**

51. Establishment and jurisdiction of Tribunal.
52. Constitution of Tribunal.
53. Salary, allowances and conditions of service.
54. Procedure and jurisdiction of Tribunal.
55. Notices of appeal.
56. Hearing and determination of appeals.
57. Statement of case for opinion of Court of Appeal.

PART IX

ENVIRONMENTAL TRUST FUND AND FINANCES

58. Establishment and purposes of the Fund.
59. Trustees for the Fund.
60. Resources of the Fund.
61. Investment of Fund monies.

SECTION

62. Exemption from taxation.
63. Borrowing by the Fund.
64. Use of Fund monies.
65. Accounts and audit of the Agency.
66. Report of the Agency.
67. Financial accounting by the Trustees.

**PART X
MISCELLANEOUS**

68. Regulations.
69. Act binds the State.
70. Ethical considerations.
71. GAHEF.

FIRST SCHEDULE—The Agency.

SECOND SCHEDULE—Board of Directors.

THIRD SCHEDULE—Environmental Assessment Board. FOURTH
SCHEDULE—Projects.

FIFTH SCHEDULE—Penalties.

CHAPTER 20:05

ENVIRONMENTAL PROTECTION ACT

11 of 1996

An Act to provide for the management, conservation, protection and improvement of the environment, the prevention or control of pollution, the assessment of the impact of economic development on the environment, the sustainable use of natural resources and for matters incidental thereto or connected therewith.

[5TH JUNE, 1996]PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Environmental Protection Act.

Interpretation

2. In this Act—

“activity” means industrial or commercial activity or activity of any other nature whatsoever, and for those purposes the keeping of a substance is to be regarded as an activity;

“adverse effect” means one or more of the following—

- (a) impairment of the quality of the natural environment or any use that can be made of it;
- (b) injury or damage to property or to plant or animal life;
- (c) harm or material discomfort to any

person;

- (d) an adverse effect on the health of any person;
- (e) impairment of the safety of any person;
- (f) rendering any property or plant or animal life unfit for use by human or unfit for its role in its ecosystem;
- (g) loss of enjoyment of normal use of property; and
- (h) interference with the normal conduct of business;

“Agency” means the Environmental Protection Agency established under section 3;

“authorised person” includes any employee of the Agency, or any person authorised in writing by the Minister;

“contaminant” means any solid, liquid, gas, odour, sound, vibration, radiation, heat or combination of any of them resulting directly or indirectly from human activities that may cause an adverse effect;

“development consent” means the decision of the public authority which entitles the developer to proceed with the project;

“effluent” means any liquid, including particles of matter and other substances in suspension in the liquid and “trade effluent” includes any effluent which is discharged from premises used for carrying on any trade or industry; and for the purposes of this definition premises wholly or

mainly used (whether for profit or not) for agricultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade or industry;

“environment” or “natural environment” means all land, area beneath the land surface, atmosphere, climate, all water, surface water, ground water, sea, seabed, marine and coastal areas and natural resources, or any combination or part thereof;

“environmental authorisation” means an environmental permit, a prescribed process licence, a construction permit or an operation permit;

“environmental control instruments” means mechanisms based on financial incentives to protect the environment and shall include environmental taxes and other charges on environmentally harmful conduct;

“environmental permit” means the permit required under section 11;

“loss or damage” includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income;

“natural resources” means the living plants, animals and organisms, ecosystems, forests, waterways, soils, and other biological factors within the natural environment, and the geologic formations, mineral deposits, renewable and non-renewable assets and the habitat of the living plants, animals and organisms;

“person responsible”, in relation to any project, enterprise, construction or development, includes any person who owns, operates, or exercises economic power or control

over or at whose order or on whose behalf the project, enterprise, construction or development will be or, as the case may be, is being undertaken;

“pollution of the environment” and “environmental pollution” mean pollution of the environment by the release into the natural environment of any contaminant;

“prescribed process” means any process designated by the Minister in regulations as a prescribed process;

“process” means any activity carried on by any person which is capable of causing any adverse effect on the environment;

“public authority” means any Ministry, local government authority or local democratic organ;

“regulations” means regulations made by the Minister under this Act;

“release” of a substance into any environmental medium whenever it is released directly or indirectly into that medium includes—

- (a) in relation to air, any emission of the substance into the air;
- (b) in relation to water, any entry (including any discharge) of the substance into water;
- (c) in relation to land, any deposit, keeping or disposal of the substance in or on land;

“waste” includes any matter prescribed to be waste and any

matter, whether liquid, solid, gaseous or radioactive, which is discharged, emitted, or deposited in the environment in such volume, composition or manner as to cause an adverse effect.

PART II ESTABLISHMENT AND FUNCTIONS OF AGENCY

Establishment
of Agency.

3. (1) There is hereby established the Environmental Protection Agency which shall be a body corporate governed by a Board of Directors.

First Schedule.
Second
Schedule.

(2) The First and Second Schedules shall have effect as to the matters therein provided for in relation to the Agency and the Board of Directors, respectively.

Functions of
Agency.

4. (1) The functions of the Agency are—

- (a) to take such steps as are necessary for the effective management of the natural environment so as to ensure conservation, protection, and sustainable use of its natural resources;
- (b) to promote the participation of members of the public in the process of integrating environmental concerns in planning for development on a sustainable basis;
- (c) to co-ordinate the environmental management activities of all persons, organisations and agencies;
- (d) to establish, monitor and enforce environmental regulations;

- (e) to prevent or control environmental pollution;
- (f) to co-ordinate an integrated coastal zone management programme;
- (g) to ensure that any developmental activity which may cause an adverse effect on the natural environment be assessed before such activity is commenced and that such adverse effect be taken into account in deciding whether or not such activity should be authorised;
- (h) to co-ordinate and maintain a programme for the conservation of biological diversity and its sustainable use;
- (i) to co-ordinate the establishment and maintenance of a national parks and protected area system and a wildlife protection management programme;
- (j) to promote and encourage a better understanding and appreciation of the natural environment and its role in social and economic development;
- (k) to establish and co-ordinate institutional linkages locally, nationally, regionally and internationally;
- (l) to play a co-ordinating role in the preparation and implementation of

cross-sectoral programmes of environmental contents;

- (m) to advise the Minister on the criteria and thresholds of activity for specifying what may amount to a significant effect on the environment;
- (n) to advise the Minister on matters of general policy relating to the protection, conservation and care of the environment and the impact of development;
- (o) to perform such other functions pertaining to the protection of the environment as may be assigned to it by the Minister by or under this Act or any other law.

(2) In the exercise of its functions the Agency may—

- (a) formulate and submit to the Minister policy recommendations and plans in furtherance of its functions;
- (b) conduct surveys, investigations and monitoring of the causes, nature, extent and prevention of harm to the environment and of pollution and assist and co-operate with other persons or bodies carrying out similar surveys or investigations;
- (c) conduct, promote and co-ordinate research in relation to any aspect of pollution or prevention thereof;

- (d) conduct investigations and inspections to ensure compliance with this Act or the regulations and investigate complaints relating to breaches of this Act or the regulations;
- (e) provide information and education to the public regarding the need for and methods of protection of the environment, improvement of the environment where altered directly or indirectly by human activity, and the benefits of sustainable use of natural resources;
- (f) conduct and co-ordinate compilation of resource inventories, surveys and ecological analyses to monitor and obtain information on the social and biophysical environment with special reference to environmentally sensitive areas and areas where development is already taking place or likely to take place;
- (g) formulate standards and codes of practice to be observed for the improvement and maintenance of the quality of the environment and limits on the release of contaminants into the environment;
- (h) request, examine, review, evaluate and approve or reject environmental impact assessments and risk analyses and make suitable recommendations for the mitigation of adverse effects of

any proposed activity on the environment;

- (i) conduct studies and make recommendations on standards relating to the improvement of the environment and the maintenance of a sound ecological system;
- (j) monitor and co-ordinate monitoring of trends in the use of natural resources and their impact on the environment;
- (k) establish and enforce administrative penalties;
- (l) advise the Minister on the content and applicability of environmental control instruments;
- (m) produce sectoral guidelines on what may constitute significant effects on the environment;
- (n) obtain expert or technical advice from any suitably qualified person on such terms and conditions as the Agency shall think fit.

(3) In the exercise of its functions the Agency shall—

- (a) compile and amend from time to time with the assistance of internationally recognised environmental groups a list of approved persons who have the

qualifications and experience to carry out environmental impact assessments;

- (b) produce physical accounts in accordance with modern accounting standards to record the natural capital of Guyana;
- (c) carry out surveys and obtain baseline information on the natural resources including ecosystems and micro ecosystems, population counts, species identification, location and condition and make such surveys, studies and information available to members of the public at their request and upon payment of the cost of photocopies;
- (d) provide general information to the public on the state of the environment by regular reports produced at least annually;
- (e) maintain and make available to members of the public during normal working hours a register of all environmental impact assessments carried out, environmental authorisations granted and other information in accordance with section 36.

(4) In performing its functions the Agency shall make use of current principles of environmental management, namely—

-
- (a) the “polluter pays” principle: the polluter should bear the cost of measures to reduce pollution decided upon by public authorities, to ensure that the environment is in an acceptable state, and should compensate citizens for the harm they suffer from pollution;
 - (b) the “precautionary” principle: where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing measures to prevent environmental degradation;
 - (c) the “strict liability” legal principle: any person who contravenes this Act or regulations shall be liable to the penalties prescribed therefor;
 - (d) the “avoidance” principle: it is preferable to avoid environmental damage as it can be impossible or more expensive to repair rather than prevent damage;
 - (e) the “state of technology” principle: measures protecting the environment are restricted by what is technologically feasible and as technology improves, the improved technology should be used to prevent and repair environmental damage.

Deference to
authority of

5. Without prejudice to the provisions of section 14,
any person or authority under any other written law, vested

Agency. with power in relation to the environment shall defer to the authority of the Agency and shall request an environmental authorisation from the Agency before approving or determining any matter in respect of which an environmental authorisation is required under this Act.

PART III ADMINISTRATION

Appointments,
remuneration. 6. (1) The Minister on the advice of the Board of Directors shall appoint—

(a) an Executive Director, who shall be the Chief Executive Officer of the Agency; and

(b) such other officers, including a Secretary, as may be necessary for the administration of this Act or the regulations.

(2) The Executive Director shall appoint all other employees as may be necessary to discharge the functions under this Act or the regulations.

(3) The remuneration and other terms and conditions of appointment of a Director, including the Executive Director shall be such as may be determined by the President.

(4) The remuneration and other terms and conditions of employment of the secretary and other officers and employees of the Agency employed under subsections 1(b) and (2) shall be such as may be determined or varied by the Agency from time to time.

(5) Where a public officer, or any other person employed by the Government, is transferred to the Agency as

c. 27:02. an officer or employee, or *vice versa*, he shall be entitled to have his aggregate service in the public service, under the Government and as an officer or employee of the Agency counted for the purposes of superannuation benefits and he shall, on his ultimate retirement, be entitled to receive such benefits calculated in accordance with the Pensions Act, in respect of the aggregate of such service, from the Agency or the Government as the case may be, with, or in connection with, which he was last employed.

(6) The Agency may, with the approval of the Minister, make such provisions as it thinks appropriate for the payment of pension, gratuity or other allowance in respect of the service of the officers and employees of the Agency on their retirement.

Delegation of authority by Agency. 7. The Agency may delegate any of its functions or powers under this Act, or the regulations, to a member of the Board of Directors, any officer of the Agency or to any other person.

Directions by Minister. 8. The Minister may give directions for the organisation of the Agency to enable it to discharge its functions under this Act, including the size of establishment, the employment of staff and the terms thereof, the provision of equipment and funds and the Agency shall comply with such directions.

Delegation of power by Minister. 9. The Minister may, in writing, delegate any of his powers, other than the power to make subsidiary legislation under this Act, to the Executive Director or to any officer of the Agency subject to such limitations, conditions and qualifications as the Minister may think fit.

PART IV ENVIRONMENTAL IMPACT ASSESSMENTS

Preliminary. 10. For the purposes of this Part—

“developer” means the applicant for environmental authorisation for a project or the State initiating a project;

“environmental impact assessment” means an assessment as provided in this Part;

“project” means the execution of construction works or other installations or schemes, any prescribed process or alteration thereof, any interference with any ecosystem or any other activity in the natural surroundings or landscape including those involving the extraction of natural resources, or any project listed in the Fourth Schedule and shall include public and private projects.

Fourth
Schedule.

Requirement of
environmental
impact
assessment.

11. (1) A developer of any project listed in the Fourth Schedule, or any other project which may significantly affect the environment, shall apply to the Agency for an environmental permit and shall submit with such application the fee prescribed and a summary of the project including information on—

- (i) the site, design and size of the project;
- (ii) possible effects on the environment;
- (iii) the duration of the project;
- (iv) a non-technical explanation of the project.

(2) Where it is not clear whether a project will significantly affect the environment, the developer shall submit to the Agency a summary of the project which shall contain the information as required by subsection (1) and the Agency shall within a reasonable period publish in at least one daily newspaper a decision with reasons as to whether the project—

- (a) will not significantly affect the environment, and therefore exempt from the requirement for an environmental impact assessment; or
- (b) may significantly affect the environment and will require an environmental impact assessment.

[17 of 2005] (3) (a) Any person who may be affected by a project exempted under subsection (2)(a) may lodge an appeal with the Environmental Assessment Board established under section 18 within thirty days of the date of publication of the Agency's decision, and the Environmental Assessment Board shall within a reasonable time publish a decision confirming or setting aside the Agency's decision.

Fifth Schedule. (b) Every person who commences a project before final determination of an appeal under paragraph (a) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Fifth Schedule.

(4) Every environmental impact assessment shall be carried out by an independent and suitably qualified person approved by the Agency and shall—

- (a) identify, describe and evaluate the direct and indirect effects of the proposed project on the environment including—
 - (i) human beings;
 - (ii) flora and fauna and species habitats;
 - (iii) soil;
 - (iv) water;
 - (v) air and climatic factors;

- (vi) material assets, the cultural heritage and the landscape;
- (vii) natural resources, including how much of a particular resource is degraded or eliminated, and how quickly the natural system may deteriorate;
- (viii) the ecological balance and ecosystems;
- (ix) the interaction between the factors listed above;
- (x) any other environmental factor which needs to be taken into account or which the Agency may reasonably require to be included; and

- (b) assess every project with a view to the need to protect and improve human health and living conditions and the need to preserve the stability of ecosystems as well as the diversity of species.

(5) Every environmental impact assessment shall contain the following information—

- (a) a description of the project, including in particular—
 - (i) the geographical area involved, the physical characteristics of the whole project and the land-use requirements during the construction and operational phases, including plans, drawings, and models;

- (ii) the main characteristics of the production process, including the nature and quantity of the materials used, plans, drawings and models;
 - (iii) an estimate, by type and quantity, of expected contaminants, residues, and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation) resulting from the operation of the proposed project;
 - (iv) the length of time of the project;
- (b) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental factors;
- (c) a description of the likely significant effects of the proposed project on the environment resulting from—
- (i) the existence of the project;
 - (ii) the use of natural resources;
 - (iii) the emission of contaminants, the creation of nuisances and the elimination of waste, and a description by the developer of the forecasting methods used to assess the effects on the environment;
- (d) an indication of any difficulties (technical deficiencies or lack of

- knowledge or expertise) encountered by the developer in compiling the required information;
- (e) a description of the best available technology;
 - (f) a description of any hazards or dangers which may arise from the project and an assessment of the risk to the environment;
 - (g) a description of the measures which the proposed developer intends to use to mitigate any adverse effects and a statement of reasonable alternatives (if any), and reasons for their rejection;
 - (h) a statement of the degree of irreversible damage, and an explanation of how it is assessed;
 - (i) an emergency response plan for containing and cleaning up any pollution or spill of any contaminant;
 - (j) the developer's programme for rehabilitation and restoration of the environment;
 - (k) a non-technical summary of the information provided under the preceding paragraphs.

(6) Before any environmental impact assessment is begun the Agency shall at the developer's cost publish in at least one daily newspaper a notice of the project and make available to members of the public the project summary referred to in subsection (1).

(7) Members of the public shall have twenty-eight days from the date of publication referred to in subsection (6) to make written submissions to the Agency setting out those questions and matters which they require to be answered or considered in the environmental impact assessment.

(8) The Agency shall after consultation with the person chosen to carry out the environmental impact assessment, set the terms and scope of the environmental impact assessment taking into account any submissions made under subsection (7).

(9) During the course of the environmental impact assessment the developer and the person carrying out the environmental impact assessment shall—

- (a) consult members of the public, interested bodies and organizations;
- (b) provide to members of the public on request, and at no more than the reasonable cost of photocopying, copies of information obtained for the purpose of the environmental impact assessment.

(10) The developer and the person carrying out the environmental impact assessment shall submit the environmental impact assessment together with an environmental impact statement to the Agency for evaluation and recommendations and publish a notice in at

least one daily newspaper confirming that the environmental impact assessment and environmental impact statement have been submitted to the Agency and members of the public shall have sixty days from the date of publication of such notice to make such submissions to the Agency as they consider appropriate.

(11) The environmental impact assessment and the environmental impact statement shall be public documents and the developer and the Agency shall have such documents available for the duration of the project and five years thereafter for inspection, subject to the deletion therefrom of such information as may disclose intellectual property rights, during normal working hours at their respective offices and shall supply on request and on payment of cost of photocopying copies of such documents.

(12) All expenses of the environmental impact assessment process (including the preparation of the preliminary and full environmental impact assessments, the environmental impact statements, and the conduct of public hearings) shall be borne by the developer.

(13) The Agency shall submit the environmental impact assessment together with the environmental impact statement to the Environmental Assessment Board for its consideration and recommendation as to whether the environmental impact assessment and the environmental impact statement are acceptable.

Approval or
rejection of
project.

12. (1) The Agency shall approve or reject the project after taking into account—

- (a) the submissions made under section 11(10) and the recommendations of the Environmental Assessment Board made under section 18(2); and

- (b) the views expressed during the consultations under section 11(9); and
- (c) the environmental impact assessment and environmental impact statement.

(2) The Agency shall publish its decision and the grounds on which it is made.

Environmental
permit.

13. (1) A decision by the Agency to issue an environmental permit for a project shall be subject to conditions which are reasonably necessary to protect human health and the environment and each environmental permit shall contain the following implied conditions—

- (a) the Agency shall have the right to cancel or suspend the environmental permit if any of the terms or conditions of the environmental permit are breached;
- (b) the developer shall have an obligation to use the most appropriate technology;
- (c) the developer shall have an obligation to comply with any directions by the Agency where compliance with such directions are necessary for the implementation of any obligations of Guyana under any treaty or international law relating to environmental protection; and
- (d) the developer shall have an obligation to restore and rehabilitate the environment.

(2) The Agency shall not issue an environmental permit unless the Agency is satisfied that—

- (a) the developer can comply with the terms and conditions of the environmental permit; and
- (b) the developer can pay compensation for any loss or damage which may arise from the project or breach of any term or condition of the environmental permit.

Environmental authorisation as a precondition to development consent.

14. (1) A public authority shall not give development consent in any matter where an environmental authorisation is required unless such authorisation has been issued and any development consent given by any public authority shall be subject to the terms of the environmental authorisation issued by the Agency.

(2) Where an environmental authorisation is cancelled or suspended, the development consent issued by the public authority shall be suspended until and unless a new environmental authorisation is issued or the suspension of the environmental authorisation is revoked.

Cessation.

15. (1) Every person who fails to carry out an environmental impact assessment or who commences a project without obtaining an environmental permit as required under this Act or the regulations shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Fifth Schedule.

Fifth Schedule.

(2) Where any project is being carried on or has been started without an environmental permit as required by this Act the Agency shall immediately serve an order in writing to the person responsible directing him to immediately stop the

project.

(3) Where the person to whom the order is issued under subsection (2) fails to comply with the order, the Minister may in coordination with other appropriate governmental entities undertake such emergency response activities as are required to protect human health or the environment.

Regulations to determine projects affecting the environment.

16. The Minister may make regulations establishing the criteria and thresholds to determine which projects may have significant effects on the environment.

Other activities.

17. (1) Where any activity by itself does not have a significant effect on the environment but the same activity or similar activities are carried out by any person in any place and cumulatively may significantly affect the environment, the Agency shall require to be carried out an environmental impact assessment of the cumulative effects of such activities by such persons.

(2) Where any public authority adopts or alters any policy, programme or plan and such policy, programme, plan or alteration may significantly affect the environment the Agency shall require the public authority to carry out an environmental impact assessment of such policy, programme, plan or alteration.

(3) Where an environmental impact assessment is required under this section, the procedure set out in this Part shall be followed in so far as such procedure is applicable.

Environmental Assessment Board.
Third Schedule.

18. (1) There is hereby established an Environmental Assessment Board, and the Third Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto.

(2) The Environmental Assessment Board shall conduct public hearings—

- (a) into all appeals submitted to it under section 11(3)(a); and
- (b) as may be necessary into environmental impact assessments and environmental impact statements to recommend to the Agency—
 - (i) whether the environmental impact assessment should be accepted, amended or rejected;
 - (ii) whether an environmental permit should be issued by the Agency;
 - (iii) what terms and conditions should be included in the environmental permit.

PART V PREVENTION AND CONTROL OF POLLUTION

Prevention of pollution.

19. (1) A person shall not—

- (a) undertake an activity that causes or is likely to cause pollution of the environment unless the person takes all reasonable and practicable measures to prevent or minimise any resulting adverse effect;
- (b) discharge or cause or permit the entry into the environment, of any contaminant in any amount,

concentration or level in excess of that prescribed by the regulations or stipulated by any environmental authorisation.

Fifth Schedule.

- (2) (a) Any person who contravenes subsection (1)(a) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (f) of the Fifth Schedule,

Fifth Schedule.

- (b) Any person who contravenes subsection (1)(b) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (e) of the Fifth Schedule.

(3) Where subsection (1) is contravened the person responsible for the contaminant or for the process involving the contaminant or who causes or permits a discharge in contravention of subsection (1) shall—

- (a) immediately notify the Agency of—
- (i) the discharge;
 - (ii) the concentration and amount of contaminant;
 - (iii) the circumstances of the discharge;
 - (iv) what action the person has taken or intends to take to restore the natural environment; and
- (b) subject to the conditions of any order issued under subsection (4), restore the natural environment by—

- (i) rescuing and restoring all plants, animals and other organisms;
 - (ii) cleaning up, removing or neutralising the contaminant;
 - (iii) restoring the air, land and water to the condition they were in before the discharge;
- (c) be liable to pay for the cost of an independent investigation into the discharge;
- (d) deposit with the Agency a sum of money equal to the estimated costs of restoration and investigation;
- (e) be liable to compensate any person who suffers any loss or damage as a result of any contravention of subsection (1);
- (f) do everything practicable to preserve, for investigation, evidence of the effects of the discharge.

(4) Where there is any contravention of subsection (1), the Minister may make an order directed to one or more of the following—

- (i) any person responsible for the contaminant;
- (ii) any person responsible for the process involving the contaminant;
- (iii) any local democratic organ or local government authority within whose boundaries the

spill occurs;

- (iv) any person who is or may be adversely affected by the contaminant or whose assistance is necessary in the opinion of the Minister to prevent, eliminate, or ameliorate the adverse effects or restore the natural environment, requiring such action as may be specified in the order in respect of the prevention, diminution or amelioration of the adverse effects and restoration of the natural environment within such period as may be specified in the order.

- (5) (a) Any person, local democratic organ, or local government authority or other body who contravenes subsection (3)(a), (b), or (f) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Fifth Schedule.

Fifth Schedule.

- (b) Any person, local democratic organ or local government authority or other body who contravenes subsection (4) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (e) of the Fifth Schedule.

Fifth Schedule.

Information on
pollution
control facility.

20. (1) The Agency may by notice in writing require the owner or operator of any sewage treatment plant, industrial waste treatment facility or any facility for the storage

or disposal of solid waste, toxic and hazardous materials or for the abatement of air pollution or any other facility for controlling pollution, to submit to the Agency at such intervals as the Agency may specify in the notice, information relating to any of the following—

- (a) the performance of the facility;
- (b) the quantity and quality of the effluent discharged;
- (c) a pollution prevention plan for the facility, and the owner or operator shall comply with the requirements of the notice.

(2) Any person who fails to comply with the requirements of a notice under subsection (1) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (a) of the Fifth Schedule.

Fifth Schedule.

Permits:
general
provisions.

21. (1) No person shall—

- (a) construct, alter, extend or replace any plant, structure, equipment, apparatus, mechanism or thing that may discharge or from which may be discharged a contaminant into any part of the natural environment except under and in accordance with a construction permit issued by the Agency; or
- (b) alter a process or rate of production with the result that a contaminant may be discharged into any part of the natural environment or the rate or manner of discharge of a

contaminant into any part of the natural environment may be altered except under and in accordance with an operation permit issued by the Agency.

(2) Subsection (1) does not apply to—

- (a) routine maintenance carried out on any plant, structure, equipment, apparatus, mechanism or thing; or
- (b) any plant, structure, equipment, apparatus, mechanism or thing that may be a source of contaminant of a class exempted therefrom by the regulations.

(3) The Agency may require an applicant for a construction permit to submit any plans, specifications and other information related to the plant, structure, apparatus, mechanism, or thing in respect of which the application for a permit is made.

(4) The Agency may require an applicant for an operation permit to submit any plans, specifications and other information related to any methods, processes or devices of the plant, structure, equipment, apparatus, mechanism or thing in respect of which the application for a permit is to be issued and any other information concerning the levels, concentrations or properties of the contaminant which may be discharged.

(5) The Agency may require an applicant, either by himself or through an independent agent, to carry out and report on any tests or experiments relating to the plant, structure, equipment, apparatus, mechanism or thing or to the methods, processes or devices to be employed to control

or prevent the discharge of any contaminant into any part of the natural environment.

(6) The Agency shall not issue a construction or operation permit unless—

- (a) the Agency includes in the permit such conditions as are reasonably necessary to protect the environment; and
- (b) the Agency considers that the applicant will be able to comply with the conditions of the permit.

(7) Where there may be a substantial effect on the environment no construction permit or operation permit shall be granted unless an environmental permit is issued under Part IV.

(8) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c) of the Fifth Schedule.

Fifth Schedule.

(9) Any person who fails to comply with—

- (a) any material term or condition of a construction or operation permit shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c) of the Fifth Schedule;
- (b) any other term or condition of a construction or operation permit shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Fifth

Fifth Schedule.

Fifth Schedule.

Schedule.

Prescribed
processes.

22. (1) No person shall, except under and in accordance with a prescribed process licence, carry on a prescribed process.

(2) A prescribed process licence may apply to the general execution of the process or to the carrying on of a process at specified premises or by means of specified plant or apparatus irrespective of where it is operated and shall contain such conditions as may be necessary to prevent an adverse effect.

(3) An application for a prescribed process licence shall be made to the Agency in the manner prescribed by the regulations.

(4) A prescribed process licence shall not be granted unless an environmental permit is issued under Part IV.

(5) Where there is any adverse effect as a result of the discharge of any contaminant used in a prescribed process, and, from the available evidence, and in the circumstances it is likely that the prescribed process caused the adverse effect, then it shall be presumed that the prescribed process caused the adverse effect unless the person responsible for the prescribed process proves that the prescribed process was operated at all times in accordance with the environmental permit and prescribed process licence and there was no interruption or interference with the prescribed process at the time of discharge of the contaminant.

(6) In considering whether it is likely that a prescribed process caused an adverse effect, the court shall take into account the following factors —

- (a) the operational process;

- (b) the equipment and facility used;
- (c) the type and concentration of materials used;
- (d) the time and place of the adverse effect;
- (e) the nature and extent of the adverse effect;
- (f) any other circumstances deemed relevant by the court.

(7) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (f) of the Fifth Schedule.

23. There shall be included in any construction or operating permit and any prescribed process licence such conditions as may be prescribed by the regulations and such additional conditions as the Agency considers appropriate.

24. (1) Where the holder of a prescribed process licence proposes—

- (a) to make any relevant change in the manner in which he carries on the prescribed process or in the amount of any substance utilised, produced or released by it; or
- (b) to transfer the licence to another person, subsection (3) shall apply.

(2) A change is relevant for the purposes of subsection (1) if it is a change capable of affecting either the amount or nature of any substance released from the process or any other characteristic of any such release or such change may lead to a harmful alteration to or may have an adverse effect on the environment.

(3) Where subsection (1) applies—

- (a) the person carrying on the prescribed process shall notify the Agency of the proposed change or transfer;
- (b) on being notified of the proposed change or transfer the Agency shall determine whether or not such change would require any amendment of the licence and, if so, what amendment or whether it would require a new licence under section 22, and the Agency shall notify the said person of its determination with respect to the proposed change or transfer;
- (c) an environmental impact assessment shall be carried out under Part IV if such change may have a significant effect on the environment.

(4) Any person who contravenes subsection 3(a) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Fifth Schedule.

Fifth Schedule.

Revocation or variation of prescribed

25. (1) The Agency may at any time, by notice in writing to the person carrying on the prescribed process, revoke a prescribed process licence or impose such conditions

process;
cancellation or
suspension of
environmental
authorisation.

as the Agency considers appropriate in addition to or in place of the existing conditions, with effect from such date as the Agency may specify provided that the revocation or variation shall not give rise to any additional adverse effect.

(2) If the Agency is of the opinion that—

- (a) the holder of an environmental authorisation obtained the authorisation improperly; or
- (b) the holder of an environmental authorisation is contravening any material term or condition of the environmental authorisation, the Agency shall cancel the environmental authorisation provided that if the Agency considers it is contrary to the public interest to cancel the environmental authorisation, the Agency may suspend the environmental authorisation instead.

(3) A suspension under this section may be for a specified period or until the fulfillment of specific conditions or until further order of the Agency.

(4) Before the Agency acts under subsection (2), the Agency shall—

- (a) notify the holder of the environmental authorisation in writing of its proposed action specifying the reason for the proposed action; and
- (b) allow the holder of the authorisation at least seven days within which to make written submissions to the Agency in

relation to the Agency's proposed action.

Enforcement notices.

26. (1) If the Agency is of the opinion that a person is contravening any condition of any environmental authorisation, or is likely to contravene any such condition, the Agency may serve on him an enforcement notice.

(2) An enforcement notice shall—

- (a) state the opinion of the Agency regarding the contravention or likely contravention referred to in subsection (1);
- (b) specify the matters constituting the contravention or the matters making it likely that the contravention will arise, as the case may be;
- (c) specify the steps that must be taken to remedy the contravention or to remedy the matters making it likely that the contravention will arise, as the case may be; and
- (d) specify the periods within which those steps must be taken.

Prohibition notices.

27. (1) Subject to the provisions of this section, where it appears to the Agency that any activity in any area is such as to pose—

- (a) a serious threat to natural resources or the environment; or
- (b) risk of serious pollution of the

environment or any damage to public health,

the Agency shall serve on the person responsible for the activity, a prohibition notice.

(2) A prohibition notice shall—

- (a) state the Agency's opinion in respect of the activity in question;
- (b) specify the use or threat involved;
- (c) specify the offending activity and require such steps as may be specified in the notice to be taken within such period as may be so specified to ameliorate the effect of the activity and, where appropriate, to restore the natural resources and environment to their condition before the activity took place.

(3) The Agency shall in the prohibition notice order the immediate cessation of the offending activity if it is of the opinion that the circumstances giving rise to the notice are such as to warrant an order to that effect or where any threat under subsection (1) is likely to have consequences which are irremediable or immediate, and shall specify in the notice the period within which an appeal against its decision to order cessation may be made pursuant to section 28.

(4) Where an appeal is made against a prohibition notice in which the cessation of an offending activity is ordered, the notice shall remain in effect pending the final determination or withdrawal of the appeal.

Fifth Schedule. (5) The person referred to in subsection (1) shall be guilty of an offence if such person continues or allows the continuation of the activity while a prohibition notice is in effect or after the dismissal of an appeal to the Environmental Appeals Tribunal against that notice, and shall be liable to the penalties prescribed under paragraph (f) of the Fifth Schedule.

(6) Where the person to whom a notice is issued under subsection (1) fails to comply with the prohibition notice, then, the Minister, in co-ordination with other approved governmental entities may undertake such emergency response activities as are required to protect human health or the environment.

(7) A prohibition notice may be served whether or not the activity is subject to any environmental authorisation.

Appeals. 28. Any person who is not satisfied with a decision of the Agency or the Environmental Assessment Board may appeal against that decision.

Environmental Appeals Tribunal. 29. Appeals shall be made to the Environmental Appeals Tribunal, the establishment and jurisdiction of which are provided for in Part VIII.

PART VI FINANCIAL ASSURANCE

Preliminary. 30. In this Part—
bank” has the meaning assigned to it by section 2 of the Financial Institutions Act;

c. 85:01.

“financial assurances” means one or more of—

- (a) cash, in the amount specified in the environmental authorisation;
- (b) a letter of credit from a bank, in the amount and terms specified in the environmental authorisation;
- (c) a guarantee in the form, terms and amount specified in the environmental authorisation from any person whose long term unsecured obligations are rated equally with a bank by an internationally recognised credit rating agency;
- (d) a performance bond in the form and terms specified in the environmental authorisation;

“works” means an activity, project, prescribed process, facility, thing, undertaking or site in respect of which an environmental authorisation is issued.

Financial
assurance.

31. (1) The Agency may include in any environmental authorisation a requirement that the person to whom that environmental authorisation is issued shall provide financial assurance to the State for any one or more of the following—

- (a) the performance of any action or compliance with any condition specified in any environmental authorisation;
- (b) the provision of alternate water supplies to replace those that the Agency has reasonable grounds to believe are or are likely to be contaminated or otherwise interfered

with by the works to which the environmental authorisation relates; and

- (c) measures appropriate to prevent adverse effects upon and following the cessation or closing of the works.

(2) A requirement under subsection (1) shall specify the amount of financial assurance and may provide that the financial assurance may be provided, reduced or released in stages specified in the environmental authorisation.

(3) The Agency may amend an environmental authorisation to change or include a requirement as to financial assurance contained in that environmental authorisation.

(4) An environmental authorisation shall not be effective until any requirements for financial assurance contained in that environmental authorisation have been fully complied with.

(5) The Minister may make regulations as to the circumstances under which financial assurance must be required by the Agency, the terms and conditions of the financial assurance and the effect of failure to provide financial assurance and for matters connected therewith or incidental thereto.

PART VII INVESTIGATIONS, PROSECUTIONS, CIVIL PROCEEDINGS

Prosecutions.

32. (1) Prosecutions in respect of offences under this Act shall be brought by the Agency or by any person authorised by the Minister in a court of summary jurisdiction.

(2) A court that convicts a person of an offence under this Act, in addition to any other remedy and to any other penalty imposed by law, may make an order prohibiting the continuation or repetition by the person of the act or omission for which the person was convicted.

General
offences.

33. (1) Any person who—

- (a) contravenes any condition contained in any enforcement notice;
- (b) fails to give information required by the Agency within the time specified by the Agency,

Fifth Schedule.

shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Fifth Schedule.

(2) Any person who makes a statement which he knows to be false or misleading in a material particular, or recklessly makes a statement which is false or misleading in a material particular, where the statement is made—

- (a) in purported compliance with a requirement to furnish any information imposed by or under this Act shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (e) of the Fifth Schedule.
- (b) for the purpose of obtaining the grant or transfer of an environmental authorisation for himself or any other person or the amendment of a prescribed process licence shall be guilty of an offence and shall be liable

to the penalties prescribed under paragraph (e) of the Fifth Schedule.

Certain specific offences.

34. (1) (a) Any person who throws down, abandons, drops or otherwise deposits or leaves anything in any manner whatsoever in circumstances as to cause, or contribute to, or tend to lead to litter shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (a) of the Fifth Schedule

Fifth Schedule.

(b) Any person responsible for any function which results in any litter shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Fifth Schedule.

Fifth Schedule.

(2) Any person—

(a) other than a person referred to in paragraph (b), who is responsible for any noise which results in an adverse effect, or

(b) who is responsible for any function which creates noise that results in any adverse effect or for any premises at which the function takes place,

shall be guilty of an offence and shall be liable in respect of the first and second mentioned persons to the penalties prescribed under paragraphs (a) and (b), respectively, of the Fifth Schedule.

Fifth Schedule.

Powers of authorised

35. (1) Any authorised person may exercise any of the powers specified in subsection (2) for the purpose of

persons. discharging or, as the case may be, assisting in the discharge of the functions of the Agency.

(2) The powers of the person referred to in subsection (1) are—

- (a) at any reasonable time (or, in a situation in which in his opinion there is an immediate risk of a significant adverse effect on or pollution of the environment, at any time) to enter premises which he has reason to believe it is necessary for him to enter;
- (b) on entering any premises by virtue of paragraph (a) to take with him—
 - (i) any person duly authorised by the Agency; and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) to make such examination and investigation as may in any circumstances be necessary, and to direct that those premises or any part of them, or anything should be left undisturbed for so long as is reasonably necessary for such examination or investigation;
- (d) to take such measurements and photographs and make such recordings as he considers necessary, for the purpose of any examination or investigation under paragraph (c);

- (e) to take samples of any articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;
- (f) in the case of any article or substance found in or on any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause pollution of the environment, to cause it to be dismantled or subjected to any process or test;
- (g) in the case of any such article or substance mentioned in paragraph (f), to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine it and do to it anything which he has power to do under paragraph (f);
 - (ii) to ensure that it is not tampered with before his examination of it is completed;
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any other proceedings relating to an environmental authorisation, an enforcement notice or a prohibition notice;
- (h) to require any person whom he has

reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (c) to answer such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;

- (i) to require the production of, or where the information is recorded in computerised form the furnishing of extracts from, any records which it is necessary for him to see for the purpose of an examination or investigation under paragraph (c) and to inspect, and take copies, of any entry in the records;
- (j) to require any person to afford him such facilities and assistance within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by this section.

(3) The Minister may by regulations make provision as to the procedure to be followed in connection with the taking of, and the dealing with, samples under subsection (2)(e).

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

(5) A person exercising his duties under this section

shall not be liable in any civil or criminal proceedings for anything done in the performance thereof if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

(6) No answer given by a person in pursuance of a requirement imposed under subsection (2) (h) shall be admissible in evidence against that person in any proceedings.

Registers of information.

36. (1) It shall be the duty of the Agency to maintain, open to the public, registers containing particulars of—

- (a) each application for an environmental authorisation made to the Agency, including the name and address of the person making the application, and the location at which any activity is proposed to be or is undertaken pursuant to the environmental authorisation;
- (b) each environmental authorisation granted by the Agency, and the terms, and conditions included therein;
- (c) each cancellation, revocation, variation or transfer of an environmental authorisation;
- (d) each enforcement notice served under section 26;
- (e) each prohibition notice served under section 27;
- (f) each incident or occurrence causing or threatening serious or material

environmental harm that comes to the notice of the Agency;

- (g) each order made under section 19;
- (h) prosecutions and other enforcement action under this Act;
- (i) any annual return required under subsection (6);
- (j) information supplied under subsection (7).

(2) The Minister may make regulations prescribing other information to be included in the register and prescribing fees.

(3) The Agency shall ensure that information required to be recorded in the register is recorded in the register as soon as practicable, but, in any event, within sixty days, after the information becomes available to the Agency.

(4) The register must be kept available for inspection by any member of the public during ordinary office hours at the principal office of the Agency.

(5) A member of the public may obtain a copy of any part of the register subject to payment of the determined or prescribed fee, if any.

(6) The holder of an environmental authorisation shall—

- (a) in each year lodge with the Agency, before the date prescribed for that purpose, an annual return containing the information required by the

Agency under the environmental authorisation or by notice in writing; and

- (b) in each year pay to the Agency before the date prescribed any annual fee prescribed by the Minister in regulations.

(7) Any person responsible for an activity which is the subject of any permit or prescribed process licence under this Act shall maintain and submit to the Agency in accordance with regulations made for this purpose records of the type, composition and quantity of contaminant released and the Agency shall maintain a register thereof.

(8) Any person who fails to comply with subsection (6) or (7) shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Fifth Schedule.

Fifth Schedule

Investigation of offences.

37. (1) Any person who has information that an offence has been committed under this Act or the regulations shall report that information to the Agency for investigation.

(2) Any person who wilfully fails to make a report required under this section shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (b) of the Fifth Schedule.

Fifth Schedule.

(3) The Agency shall investigate every report made under subsection (1) and where there is sufficient evidence that an offence has been committed, the Agency shall institute legal proceedings or report the matter to the police, as may be appropriate, and in either case shall notify the person who made the report.

Obstruction of

38. Every person who assaults, obstructs or hinders

authorised persons.
Fifth Schedule.

an authorised person in the execution of his duty under this Act or the regulations shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (c) of the Fifth Schedule.

Damage to environment.
Fifth Schedule.

39. (1) Every person who causes material environmental harm by polluting the environment intentionally or recklessly and with the knowledge that material environmental harm will or might result is guilty of an offence and shall be liable to the penalties prescribed under paragraph (f) of the Fifth Schedule.

Fifth Schedule.

(2) Every person who causes material environmental harm by polluting the environment is guilty of an offence and shall be liable to the penalties prescribed under paragraph (e) of the Fifth Schedule.

Fifth Schedule.

(3) Every person who causes serious environmental harm by polluting the environment intentionally or recklessly and with the knowledge that serious environmental harm will or might result is guilty of an offence and shall be liable to the penalties prescribed under paragraph (h) of the Fifth Schedule.

Fifth Schedule.

(4) Every person who causes serious environmental harm by polluting the environment is guilty of an offence and shall be liable to the penalties prescribed under paragraph (f) of the Fifth Schedule.

(5) Environmental harm is to be treated as material environmental harm if—

- (i) it consists of an environmental nuisance of a high impact or on a wide scale; or
- (ii) it involves actual or potential harm to the health or safety of human beings that is not trivial,

or other actual or potential environmental harm (not being merely an environmental nuisance) that is not trivial.

(6) Environmental harm is to be treated as serious environmental harm if it involves actual or potential harm to the health or safety of human beings that is of a high impact or on a wide scale, or other actual or potential environmental harm (not being merely an environmental nuisance) that is of a high impact or on a wide scale.

Continuing offences.

40. Where a person is convicted of an offence under this Act or the regulations, then, if the contravention in respect of which he was convicted is continued after he was convicted he shall be guilty of a further offence and liable on conviction to a further fine of one-fifth of the maximum penalty prescribed for that offence for each day on which the offence continues.

Offences by bodies corporate.

41. Where an offence under any provision of this Act or the regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other officer of the body corporate or a person who was purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Proof of offences.

42. In any prosecution of an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the defendant, whether or not the employee or agent is identified or prosecuted for the offence.

Orders of court.

43. (1) Where an offender has been convicted of an offence under this Act the court shall impose a fine and

may impose a term of imprisonment prescribed therefor in the Fifth Schedule.

Fifth Schedule.

(2) Where an offender has been convicted of an offence under this Act or the regulations, in addition to any fine, imprisonment, or other sanction that may be imposed the court may, after considering the nature or the offence and the circumstances surrounding its commission, make an additional order having any or all of the following effects—

- (a) prohibiting the offender from doing any act or engaging in any activity that may result in the continuation or repetition of the offence;
- (b) directing the offender to take such action as the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;
- (c) directing the offender to publish at the offender's cost, in the manner prescribed, the facts relating to the conviction;
- (d) directing the offender to notify, at the offender's own cost and in the manner prescribed, any person aggrieved or affected by the offender's conduct, of the facts relating to the conviction;
- (e) directing the offender to post such bond or pay such amount of money into court as will ensure compliance with any order made pursuant to this section;

- (f) directing the offender to submit to the Agency, on application made by it within three years after the date of conviction, such information with respect to the activities of the offender as the court considers appropriate in the circumstances;
- (g) directing the offender to compensate the Agency, in whole or in part, for the cost of any remedial or preventative action taken by or caused to be taken on behalf of the Agency as a result of the act or omission that constituted the offence;
- (h) directing the offender to perform community service, subject to such reasonable conditions as may be imposed therein;
- (i) requiring the offender to comply with such other reasonable conditions as the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(3) Where an offender fails to comply with an order made under subsection (2) (c) directing the publication of facts relating to the offence, the Agency may publish the facts in compliance with the order and recover the costs of publication from the offender.

(4) Where the court makes an order under subsection (2) (g) directing an offender to pay costs or the

Agency incurs publication costs under subsection (3), the costs constitute a debt due to the Government and may be recovered as such.

(5) An order made under subsection (2) comes into force on the day on which it is made or on such other day as the court may determine.

Additional fine.

44. Where an offender had been convicted of an offence under this Act, the court may, where it is satisfied that as a result of the commission of the offence the offender acquired any monetary benefits or that monetary benefits accrued to the offender, order the offender to pay, notwithstanding the maximum amount of any fine that may otherwise be imposed under this Act or the regulations, an additional fine in an amount equal to the court's estimation of the amount of those monetary benefits.

Compensation for loss of property.

45. (1) Where an offender has been convicted of an offence under this Act, the court may, at the time of passing the sentence and on the application of the person aggrieved, order the offender to pay to that person an amount by way of satisfaction or compensation for loss of or damage to property suffered by that person as a result of the commission of the offence.

(2) Where an amount that is ordered to be paid under subsection (1) is not paid forthwith, the applicant may, by filing the order, enter as a judgment, in the court in which the trial was held, the amount ordered to be paid, and that judgment is enforceable against the offender in the same manner as if it were a judgment rendered against the offender in that court in civil proceedings.

Fixed penalties.

Fifth Schedule.

46. Where any authorised person or officer has reason to believe that a person has committed an offence for which penalties are prescribed under the Fifth Schedule he may give that person a notice offering him the opportunity to discharge

any liability to conviction for that offence by payment to the Agency of a sum of money which amounts to two-thirds of the minimum prescribed penalty within twenty-eight days of the date of the notice.

Injunction.

47. (1) Where, on the application of the Agency, it appears to the High Court that a person has done, or is about to do or is likely to do any act or thing constituting or directed toward the commission of an offence under this Act, the court may issue an injunction ordering any person named in the application—

- (a) to refrain from doing any act or thing that appears to the court may constitute or be directed toward the commission of an offence under this Act; or
- (b) to do any act or thing that it appears to the court may prevent the commission of an offence under this Act.

Civil proceedings.

48. (1) Any person who has suffered loss or damage as a result of the commission by any other person of any offence under this Act or any conduct that is contrary to this Act or the regulations may, in the High Court, sue for the recovery from the person who committed the offence or engaged in the conduct an amount equal to the loss or damage proved to have been suffered by the person and an amount to compensate for the costs of any investigation in connection with the matter and of proceedings under this section.

(2) Any person who suffers or is about to suffer loss or damage as a result of conduct that is contrary to any provision of this Act or the regulations may seek an injunction from the High Court ordering the person engaged in the conduct—

- (a) to refrain from doing any act or thing that it appears to the Court causes or will cause the loss or damage; or
- (b) to do any act or thing that it appears to the Court prevents or will prevent the loss or damage.

Other proceedings and remedies not affected.

49. (1) Nothing in this Act shall prevent the prosecution of any person for an offence under any other law.

(2) No civil remedy for an act or omission is suspended or affected by reason only that the act or omission is an offence under this Act and nothing in this Act shall be construed so as to repeal, remove, or reduce any remedy available to any person under any other law.

Protection of officers of Agency.

c. 5:07.

50. Any officer or other employee of the Agency, any person acting under the direction or authority of any such officer or other employee or any other person exercising or purporting to exercise any function conferred by or under this Act, shall be entitled to the protection afforded by the Justices Protection Act.

PART VIII
ESTABLISHMENT AND JURISDICTION OF
ENVIRONMENTAL APPEALS TRIBUNAL

Establishment and jurisdiction of Tribunal.

51. (1) A Tribunal to be known as the Environmental Appeals Tribunal is hereby established for the purpose of exercising the jurisdiction conferred upon it by this Act or by any other written law.

(2) The Tribunal shall consist of a Chairman and such other members, including a Vice Chairman, as may be

appointed under section 52.

(3) The Tribunal shall be a superior court of record and have an official seal which shall be judicially noticed, and shall have in addition to the jurisdiction and powers conferred on it by this Act all the powers inherent in such a court.

(4) The Tribunal shall have the power to enforce its own orders and judgments, and the same power to punish contempts as the High Court of Justice.

(5) The Tribunal shall have jurisdiction to hear and determine appeals—

- (a) from the refusal of the grant of a construction or operation permit under section 21 or a prescribed process licence under section 22;
- (b) against the conditions attached to any construction or operation permit or prescribed process licence;
- (c) against the revocation or variation of a construction or operation permit or prescribed process licence;
- (d) against an enforcement notice or a prohibition notice;
- (e) against the refusal of an environmental permit under section 13;
- (f) against the requirement of an environmental permit;

- (g) against the refusal of an environmental authorisation or the cancellation or suspension thereof;
- (h) in respect of such other matters as may be prescribed by the Minister or arise under this Act or any other written law where jurisdiction in the Tribunal is specifically provided.

(6) A Registrar of the Tribunal and such other officials, clerks and employees as may be required shall be appointed by the Minister.

Constitution of
Tribunal.
[17 of 2005]

52. (1) The Tribunal shall be comprised of a Chairman and four other members including a Vice-Chairman, each of whom may be appointed to serve in a full-time, part-time or periodic capacity as may be required to fulfill the objects of this Act.

(2) The Chairman of the Tribunal shall be an attorney-at-law of not less than ten years standing, and shall be appointed by the President.

(3) The members of the Tribunal other than the Chairman and Vice-Chairman, shall be appointed by the President from among such persons as appear to the President to be qualified by virtue of their knowledge of or experience in environmental protection and conservation, engineering, the natural sciences, or the social sciences.

(4) All members of the Tribunal shall hold office under such requirements and conditions of service and for such term, not less than two years, as may be determined by the President and set forth in the terms of reference at the time of their appointment and shall be eligible for reappointment.

(5) Notwithstanding that his term of office has expired, any member of the Tribunal may, with the permission

of the President acting on the advice of the Chairman of the Tribunal, continue in office for such period after the expiry of his term as may be necessary to deliver judgment, or to do any other thing in relation to proceedings that were commenced before such member prior to the expiry of his term of office.

(6) Any member of the Tribunal may, at any time by notice in writing to the President, resign his office.

(7) The President may remove from office any member of the Tribunal for inability, misbehaviour or on the ground of any employment or interest which is incompatible with the functions of a member of the Tribunal.

(8) Where any member of the Tribunal is ill, or otherwise unable to act, or where his office is vacant, the President may appoint a person to act in the stead of such member during his illness, or incapability, or until the office is filled, as the case may be.

(9) No defect in the qualification or appointment of any member of the Tribunal shall vitiate any proceedings thereof.

Salary,
allowances and
conditions of
service.

53. (1) There shall be paid to each member of the Tribunal, and to a person appointed to act in or perform the functions of any member of the Tribunal such salary or remuneration and such allowances as may be prescribed by order by the President.

(2) Such other conditions of service shall be applicable to the Chairman, Vice-Chairman and other members of the Commission as may be prescribed by order by the President.

(3) The salary, remuneration, allowances and the other conditions of service of the Chairman, Vice-Chairman,

and of any other member of the Tribunal shall not be altered to his disadvantage after his appointment to the Tribunal or during his tenure of office.

Procedure and
jurisdiction of
Tribunal.

54. (1) The jurisdiction and powers of the Tribunal may be exercised by the Chairman or the Vice-Chairman and two other members selected by the Chairman or Vice-Chairman, as the case may be, for the purpose of any case or proceeding which may be brought before the Tribunal.

(2) Unless rules made under this section otherwise provide, fourteen clear days notice shall be given to the appellant and to the respondent of the date fixed for the hearing of a matter by the Tribunal.

(3) The Chairman of the Tribunal, when present, shall preside, and, in the absence of the Chairman, the Vice-Chairman shall preside.

(4) All appeals to the Tribunal shall be heard in public and any appellant, complainant or respondent may appear before the Tribunal in person or be represented by an attorney-at-law.

(5) In relation to the attendance and examination of witnesses, the production and inspection of documents, the enforcement of its orders, the entry on and inspection of property, and other matter necessary or proper for the due exercise of its jurisdiction, the Tribunal shall have all such powers, rights and privileges as are vested in the High Court on the occasion of an action.

(6) A summons signed by the Registrar of the Tribunal shall have the same force and effect as any formal process capable of being issued in any action taken in the High Court for enforcing the attendance of witnesses and compelling the production of documents.

(7) In any matter before the Tribunal, the Tribunal may order that written arguments and a citation of authorities be submitted to the Tribunal in addition to or, with the consent of the parties, in place of an oral hearing.

(8) The decision of the Tribunal shall be that of the majority of the members present, but the opinion of the presiding member shall prevail on any matter arising in the course of any proceedings which, in his opinion, is a question of law.

(9) The decision of the Tribunal in any proceedings shall be delivered by the presiding member and any member may provide a concurring or dissenting opinion to the decision of the Tribunal.

(10) The Tribunal may, subject to the approval of the President, make rules not inconsistent with this Act governing the carrying on of the business of the Tribunal and the practice and procedure in connection with appeals to the Tribunal and other proceedings, and the regulating of any matters relating to the costs of proceedings before the Tribunal.

Notices of
appeal.
[17 of 2005]

55. (1) This section applies to every appeal to the Tribunal.

(2) The appeal shall be instituted by filing with the Registrar of the Tribunal a notice of appeal and serving a copy thereof on the Secretary of the Agency or other respondent.

(3) Any appeal instituted under this section shall be filed within fourteen days of the service on, the person seeking to appeal the decision of the Authority or other respondent or within such other time as may be prescribed by rules made under section 54(10).

(4) Notwithstanding subsection (3), an appeal may

be instituted out of time if the Tribunal is satisfied that there was a reasonable cause for not appealing within the time limit and that the appeal was filed thereafter without unreasonable delay.

(5) The notice of appeal shall describe the specific dispute and specify the grounds of appeals, and shall be in such form as may be prescribed by rules of the Tribunal.

(6) If on the hearing of the appeal the appellant desires to go into any ground of appeal which was not specified in the notice of appeal, and the omission of that ground from the notice was in the opinion of the Tribunal not wilful or unreasonable, the Tribunal shall not by reason of anything in subsection (5) be precluded from allowing the appellant to go into that ground or taking it into consideration.

(7) Immediately after receiving the notice of appeal, or within such other time as may be prescribed by rules of the Tribunal, the Agency or other respondent shall forward to the Tribunal copies of all documents relevant to the decision appealed from.

Hearing and
determining of
appeals.

56. (1) The onus of proving that the decision complained of is excessive or wrong is on the appellant.

(2) In appeals involving the Agency, there shall be a presumption of regularity with regard to findings of fact by the Agency, and such findings shall not be reversed unless the appellant affirmatively demonstrates that there is no substantial evidence supporting such findings of fact.

(3) Subject to subsection (4), the Tribunal may dispose of an appeal by—

- (a) dismissing it;
- (b) allowing it;

- (c) allowing it and modifying the decision or action of the Agency; or
- (d) allowing it and referring the decision or action back to the Agency for reconsideration.

(4) Subject to rules made under section 54(10) the Tribunal may make an order for the payment of costs to the successful party in relation to the whole of the proceedings before it, or any part thereof including costs incurred in the summoning and attendance of necessary witnesses.

(5) The decision of the Tribunal is final on a question of fact; an appeal shall lie on any question of law to the Court of Appeal upon entry of a final judgment by the Tribunal.

Statement of
case for opinion
of Court of
Appeal.

57. (1) The appellant or the Agency or other complainant or respondent, if dissatisfied with the decision of the Tribunal as being erroneous in point of law, may, within twenty-one days after the delivery of the decision or within such other time as may be prescribed, appeal against such decision by—

- (a) filing with the Registrar a notice in writing, in the prescribed form, identifying the specific point or points of law alleged to be in error and requesting the Tribunal to state and sign a case for the opinion of the Court of Appeal; and
- (b) serving a copy of the said notice on the secretary of the Agency or other respondent or appellant in the underlying action, as the case may be.

(2) The case shall set forth the facts and the determination of the Tribunal relevant to the specific point or points of law alleged to be in error, and the party requiring it shall transmit the case, when stated and signed, to the Court of Appeal within twenty-one days after receiving the same.

(3) At or before the time when the party transmits the case to the Court of Appeal, the party requiring it shall send notice in writing of the fact that the case has been stated on his application, together with a copy of the case, to the other party or parties.

(4) The Court of Appeal shall hear and determine any question or questions of law arising on the case, and shall reverse, affirm or amend the determination in respect of which the case has been stated, or shall remit the matter to the Tribunal with the opinion of the Court of Appeal thereon.

(5) The Court of Appeal may cause the case to be sent back to the Tribunal for amendment on a point of law, and thereupon the case shall be amended accordingly, and judgment shall be delivered after it has been amended.

PART IX ENVIRONMENTAL TRUST FUND AND FINANCES

Establishment
and purposes
of the Fund.

58. There is hereby established an Environmental Trust Fund, hereinafter in this Part referred to as “the Fund”, which shall be used to fund the operations of the Agency and for purposes authorised under this Act, including—

- (a) protecting the environment and conserving natural resources;
- (b) incentive measures for reducing environmental pollution;

- (c) public awareness and education programmes to enhance the understanding of environmental protection and natural resources management issues within Guyana.

Trustees for the Fund.

59. (1) Four members of the Board of Directors of the Agency, including the Executive Director, shall be designated by the President as Trustees of the Fund.

(2) Service as a Trustee shall terminate at such time as a Trustee ceases to be a member of the Board of Directors.

Resources of the Fund.

60. (1) The resources of the Fund shall consist of—

- (a) such sums as may be provided by Parliament;
- (b) sums allocated from time to time to the Agency from loan funds;
- (c) such sums which are provided to the Agency or the Government by foreign states, international organisations, multilateral or bilateral lending agencies, private individuals, foundations, corporations or other entities to further the objects of this Act;
- (d) revenue obtained under this Act or the regulations including fixed penalties paid under section 46;
- (e) such moneys or other assets as may accrue to, or vest in the Agency by way of grants, subsidies, bequests, donations or gifts;

- (f) sums borrowed by the Agency under section 63;
- (g) all other sums or property that may in any manner become payable to or vested in the Agency.

(2) In this section, the expression “loan funds” means such sums as may be made available from time to time to the Government by way of loan.

Investment of
Fund monies.

61. (1) All monies which comprise the Fund and which do not have to be used immediately to defray expenses as provided for in section 64 shall be invested in such a manner as the trustees consider fit which is designed to preserve the principal and achieve a reasonable rate of return and such investments shall be approved either generally or specifically by the Governing Board.

(2) The trustees shall possess the authority necessary, either directly or through authorised agents, to undertake such investments as are authorised under subsection (1), including the power to buy and sell such securities or other obligations as the Governing Board determines to be appropriate.

Exemption
from taxation.

62. The Fund and the Agency shall be exempt from all forms of taxation whatsoever, including customs duties, consumption tax, capital gains tax, corporation tax, income tax, property tax, purchase tax, motor vehicles taxes and licence fees, other fees, charges, assessments, levies and imposts on any income or profits or on assets acquired for use by the Fund or the Agency.

Borrowing by
the Agency.

63. (1) Subject to subsection (2), the Agency may borrow any money required by it for the efficient exercise of its functions or for meeting its obligations.

(2) Borrowing may be effected only with the approval of the Minister to whom responsibility for finance is assigned as to the amount, the sources of borrowing, and the terms and conditions of the loan, and may be either general or limited to a particular transaction and may be either unconditional or subject to conditions.

(3) The Agency may not pledge its assets as security for any loan without the written approval of the Minister to whom responsibility for the environment is assigned.

Use of Fund monies.

64. (1) Contributions to the Fund may be designated for specific projects or made subject to specific conditions, in which case such contributions shall be preserved and utilised solely for the designated purpose. In all other instances, the Trustees are authorised to pay for any of the following matters out of the general resources of the Fund –

- (a) the expenses of the Agency including the remuneration of its directors, officers and employees;
- (b) the capital expenses, including maintenance and insurance of the property under the administration and control of the Agency;
- (c) any payment toward the purchase of immovable property by the Agency to further the objects of this Act; and
- (d) any other expenses which are lawfully related to the activities of the Agency.

(2) While funding for the Agency generally shall be processed through the Fund, the Agency also shall be

authorised to receive and utilise direct financial assistance or other support for specific projects or activities which will not be processed through or accounted for by the Fund where such method of financial management is required as a condition established by an entity providing support to the Agency.

(3) Any sums of money recovered against the Agency for an action of the Agency, its directors, officers and other authorised persons acting in good faith in the course of the operations of the Agency, shall be paid out of the Fund.

Accounts and
audit of the
Agency.

65. (1) The financial year of the Agency shall end on the thirty-first day of December.

(2) The Agency shall keep proper accounts and other records in respect of its operations and the accounts shall be audited annually by the Auditor General.

(3) All books of accounts kept by the Agency shall be subject to examination and audit at any time by the Auditor General.

(4) The members, officers and employees of the Agency shall grant to the Auditor General access to all books, documents, cash and securities of the Agency and shall give him on request all such information as may be within their knowledge in relation to the operation of the Agency.

Report of the
Agency.

66. (1) The Agency shall not later than six months after the end of each financial year submit a report to the Minister containing—

(a) an account of its transactions throughout the preceding financial year in such detail as the Minister may direct; and

(b) a statement of the accounts of the

Agency audited in accordance with section 65.

(2) A copy of the report together with a copy of the Auditor General's report shall be printed and laid before the National Assembly.

Financial accounting by the Trustees.

67. (1) The Trustees shall keep proper accounts and other records in respect of the Fund, and the Fund shall be audited annually by the Auditor General.

(2) The Trustees of the Fund shall, not later than three months after the end of each financial year, submit to the Board of Directors a report dealing generally with the proceedings and policies of the Fund during the preceding financial year and also containing financial statements and any other information relating to the Fund and its support of activities through the Agency as may be requested by the Board.

(3) The financial year of the Fund shall end on the thirty-first day of December.

(4) The Chairman of the Board shall submit to the Minister a copy of every report submitted under this section.

PART X MISCELLANEOUS

Regulations.

68. (1) The Minister may make regulations for the purpose of giving effect to the provisions of this Act, and in particular but without prejudice to the generality of the foregoing, such regulations may contain provisions in relation to—

- (a) standards and codes of practice with respect to the protection and

rehabilitation of the environment and the conservation of natural resources;

- (b) the quantity, condition or concentration of substances that may be released into the environment;
- (c) the restriction or prohibiting of ozone depleting substances;
- (d) the establishment of ambient air quality standards, an air pollution monitoring system and index, and the manufacture, use and emission of air contaminants;
- (e) the reduction of litter and the discharge of waste generally, and the fees payable in relation thereto;
- (f) the design, construction, operation, maintenance and monitoring of facilities for the control of pollution and the disposal of waste;
- (g) the protection of particular species of prescribed fauna and flora;
- (h) classifying contaminants and sources of contaminants including the designation of certain contaminants as hazardous;
- (i) requiring the filing of terms of returns concerning any matter regulated by or under this Act or regulations;
- (j) protecting the coastal and marine

resources;

- (k) prohibiting or regulating and controlling the discharge of any contaminant or contaminants into the natural environment from any source of contaminant or any class thereof;
- (l) prescribing maximum permissible amounts, concentrations or levels of any contaminant or combination of contaminants, and any class of either of them;
- (m) prescribing the maximum permissible concentration or level in water of any contaminant either generally or with respect to any part of the waters of Guyana specified in the regulations;
- (n) governing the location of waste disposal sites, establishing classes of waste disposal sites, and designating parts of Guyana in which no waste disposal sites, or any class thereof, shall be established or operated;
- (o) prohibiting the dumping of waste into the marine environment;
- (p) the method of service of any document or class of documents given or served under this Act or the regulations;
- (q) governing and regulating the management of waste and

prescribing standards for waste management systems and for the location, maintenance and operation of waste disposal sites, or any class thereof;

- (r) the form and manner of, and the fees payable in connection with an application for any prescribed process licence or permit that may be granted by the Agency under this Act;
- (s) the designation of any process as a prescribed process and the grant, refusal, revocation or suspension of any prescribed process licence that may be issued by the Agency and the terms, conditions or restrictions subject to which such prescribed process licences may be granted;
- (t) the fees chargeable by the Agency for services rendered by the Agency, its employees or agents in carrying out the provisions of any enactment under which the Agency exercises functions;
- (u) prohibiting or halting the emission of sounds or vibrations or prescribing maximum levels of sounds and vibrations and the procedures for determining the levels of sounds or vibrations that are emitted;
- (v) the quality of fuels, additives and lubricants that may be imported or used for vehicles, generating electricity,

industrial processes or incineration;

- (w) defining standard, refillable, returnable, non-refillable or non-returnable containers or packaging and requiring the payment of any deposit at the time of purchase of any material;
- (x) requiring or authorising the placement of notices or marks on products, containers, packaging or label on product- containers or packaging to indicate matters of environmental concern;
- (y) any other matter relating to the prevention and control of environmental pollution;
- (z) the principles to facilitate the participation of communities which are likely to be adversely affected by the activity of a developer, taking into account the rights of indigenous communities;
- (aa) the utilisation of forest resources and the extraction of mineral resources;
- (bb) any other matter required by this Act to be prescribed.

(2) The Minister may by regulations which shall be subject to negative resolution of the National Assembly amend any penalty prescribed by this Act.

Act binds the

69. (1) This Act and the regulations shall bind the

State. State.

(2) Nothing in this Act shall be construed as rendering the State liable to prosecution.

Ethical considerations.

70. If any representative of the Agency, including any member of the Board of Directors or Environmental Assessment Board or any officer or employee of the Agency directly or indirectly demands or accepts any fee, prerequisite, bribe, gratuity, recompense or reward, whether pecuniary or otherwise, from any person on account of anything done or to be done (or omitted or to be omitted) by such representative, officer or employee in any way relating to his office or employment, or if any representative, officer or employee attempts to make any collusive agreement to neglect his duty or to conceal or connive at any act or omission whereby any provision of this Act or other law may be eroded or violated, such representative, officer, or employee shall be guilty of an offence and shall be liable to the penalties prescribed under paragraph (d) of the Fifth Schedule.

Fifth Schedule.

GAHEF.
[O.23/1988]

71. The provisions of the Guyana Agency for Health Sciences, Education, Environment and Food Policy Order, in so far as they relate to the environment and other matters for which provision is made in this Act, shall cease to have effect.

S. 3

FIRST SCHEDULE

THE AGENCY

Seal of the Agency.

1. (1) The seal of the Agency shall be kept in the custody of the Executive Director or any person designated in writing by the Executive Director and shall be authenticated by the signature of the Executive Director.

(2) Every document purporting to be an instrument duly executed under seal of the Agency shall be received in evidence and deemed, without proof to be so executed unless the contrary is proved.

(3) All documents, other than those required by law to be under seal of the Agency, may be signified under the hand of the Executive Director.

Protection of Agency.

2. No act done or proceeding taken under this Act shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the matter in question.

Protection of Executive Director.

3. (1) Subject to paragraph (2) no action, suit, prosecution or other proceedings shall be brought or instituted personally against the Executive Director in respect of any act done *bona fide* in the execution of his duties.

(2) Where the Executive Director is exempt from liability by reason only of subsection (1), the Agency is liable to the extent that it would be if the Executive Director was a servant or agent of the Agency, so, however, that if in any case the Agency is not liable for any of the above-mentioned acts, then paragraph (1) does not operate to exempt the Executive Director as therein stated.

Headquarters of Agency.

4. The headquarters of the Agency shall be in Georgetown.

Charging of fees for services rendered.

5. Subject to the provisions of this Act or the regulations the Agency may charge fees in respect of any services rendered by it under this Act or the regulations.

SECOND SCHEDULE

s. 3

BOARD OF DIRECTORS

Composition.

1. The Board of Directors (in this Schedule referred to as "The Board") shall consist of not less than seven nor more than eleven persons, a majority of whom shall be knowledgeable and with experience in matters relating to the use of the natural environment or in environmental protection or conservation, and the rest of whom shall be knowledgeable and with experience in corporate management or other related expertise, appointed for one year by the Minister.

Chairman,
Vice-Chairman.

2. The Minister may appoint—

- (a) one of the members of the Board to be Chairman of the Board; and
- (b) another member of the Board to be Vice-Chairman.

3. The functions of the Board are to—

- (a) oversee the operations of the Agency;
- (b) approve recommendations by the Executive Director on the organisation of the Agency and the appointment of senior staff;
- (c) appoint working groups, sub-committees or bodies as needed to enable the Board to carry out its functions;
- (d) approve environmental policies;

- (e) propose environmental laws or regulations to the Minister;
- (f) approve budget, workplan and programmes;
- (g) approve the financial and annual reports;
- (h) provide guidance on matters related to the protection of the environment.

Meetings.

4. The Board shall meet at least once in each month and at such other times as the Chairman determines is necessary for the efficient discharge of its functions.

Procedure.

5. The Board may determine its own procedure and may, subject to the approval of the Minister, make rules governing such procedure, and prescribe such forms as are considered necessary.

Removal of member of Board.

6. (1) The Minister may remove a member of the Board if that member—

- (a) becomes incapable of carrying out his duties;
- (b) becomes bankrupt or compounds with his creditors;
- (c) is convicted of any offence;
- (d) is guilty of misconduct;
- (e) is absent, except on leave granted by the Board, from all meetings of the Board held during two consecutive

months, or during any three months in any period of twelve months;

- (f) fails to comply with paragraph 7;
- (g) fails to carry out satisfactorily any of his functions under this Act or the regulations:

Provided that a member shall not be removed under this sub-paragraph unless he has been given a reasonable opportunity to be heard.

(2) It shall be an implied term of the appointment of a member of the Board that the appointment shall terminate if he is convicted of any offence under this Act or of any other offence, the commission of which involves dishonesty.

Disclosure of interest.

7. (1) Any member of the Board who has any interest, directly or indirectly, in any matter before the Board—

- (a) shall disclose the nature of his interest to the Board; and
- (b) shall not take part in any deliberation or decisions of the Board with respect to that matter.

(2) A disclosure under this section shall be recorded in the minutes of the Board.

THIRD SCHEDULE

s. 18

ENVIRONMENTAL ASSESSMENT BOARD

-
- Composition of Board. 1. The Environmental Assessment Board (in this Schedule referred to as “The Board”) shall consist of not less than three nor more than five members, appointed by the Minister.
- Chairman and Vice-Chairman. 2. The Minister shall designate a Chairman and a Vice-Chairman from among the members of the Board.
- Terms of members. 3. The members of the Board shall be appointed for a term not exceeding two years to serve in a part-time or periodic capacity.
- Quorum. 4. Three members of the Board constitute a quorum.
- Remuneration. 5. The members of the Board shall be paid such remuneration and expenses as may be determined by the Minister.
- Practice of the Board. 6. (1) The Board may determine its own procedure and may, subject to the approval of the Minister, make rules governing such procedure.
- (2) All hearings before the Board shall be in public and the parties to the proceedings shall be entitled to be heard in person or by counsel.
- (3) Fourteen days’ notice of all hearings shall be given by advertisement in at least one daily newspaper.
- (4) (a) After the conclusion of the hearing, the Board shall make its report in writing.
- (b) Any member not agreeing with the majority may record his views.
- (c) No member of the Board shall participate in the report of the Board unless he was present throughout

the hearing and heard the evidence and submissions of the parties.

- (d) The report of the Board shall be a public document and shall be available to members of the public upon payment of the reasonable cost of photocopying.

Protection of members.

7. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of an act done *bona fide* in execution of this Act.

Disclosure of interest.

8. (1) Any member of the Board who has any interest, directly or indirectly, in any matter before the Board—

- (a) shall disclose the nature of his interest to the Board; and
- (b) shall not take part in any deliberation or decisions of the Board with respect to that matter.

(2) A disclosure under this section shall be recorded in the minutes of the Board.

ss. 10, 11.

FOURTH SCHEDULE

PROJECTS

1. The construction of any hotel, guest house or inn above ten rooms.

2. Installation for hydro-electric energy production.

3. Construction of roads, harbours and airfields.
4. Dams and other installations designed to hold liquid or store it on a long-term basis.
5. Installation for the treatment of waste water, industrial or domestic waste.
6. The importing of any waste matter whether hazardous or not.
7. The release, use or keeping of any genetically modified organisms.
8. The harvesting and utilisation of forest resources.
9. The extraction and conversion of mineral resources.

FIFTH SCHEDULE

PENALTIES

ss. 11, 15, 19,
20, 21, 24, 27,
33, 34, 36, 37,
38. 39. 43. 60.

Paragraph	Prescribed Penalties
(a)	a fine of not less than ten thousand dollars nor more than fifty thousand dollars;
(b)	a fine of not less than thirty thousand dollars nor more than eighty thousand dollars;
(c)	a fine of not less than sixty thousand dollars nor more than one hundred and fifty thousand dollars;
(d)	a fine of not less than seventy thousand

dollars nor more than three hundred thousand dollars and imprisonment for three months;

- (e) a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and imprisonment for six months;
- (f) a fine of not less than three hundred thousand dollars nor more than seven hundred and fifty thousand dollars and imprisonment for one year;
- (g) a fine of not less than four hundred thousand dollars nor more than one million dollars and imprisonment for five years;
- (h) a fine of not less than eight hundred thousand dollars nor more than two million dollars and imprisonment for five years:

Provided, that where the offender, liable to a prescribed fine under any of the aforesaid paragraphs is a body corporate, the body corporate shall be liable to a fine of not less than twice such prescribed minimum fine nor more than twice such prescribed maximum fine, and, where the offender liable to a prescribed term of imprisonment under any of the aforesaid paragraphs is a body corporate, the body corporate shall be liable to twice such term of imprisonment.

SUBSIDIARY LEGISLATION

Reg. 6/2000

**ENVIRONMENTAL PROTECTION (WATER
QUALITY) REGULATIONS**

made under section 68

ARRANGEMENT OF REGULATIONS

REGULATION

**PART 1
PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II
POWER TO ISSUE ENVIRONMENTAL
AUTHORISATION**

3. Registration.
4. General requirement to apply for an authorisation.
5. Restrictions on the discharge of effluents.
6. Restrictions on disposal of sludge.

**PART III
PARAMETER LIMITS AND CONTROL OF EFFLUENT**

7. Change in operating conditions.
8. Application for variance.
9. Parameter limits of effluent discharges.
10. Agency may waive applicability.

REGULATION

**PART IV
NEW SOURCES OF EFFLUENT DISCHARGE**

12. Prohibition against new and altered sources of effluent discharge.
13. Requirement and approval of plans.

**PART V
FEES**

14. Fee payable for registration, etc.
15. Waiver of fee.

**PART VI
SAMPLING, RECORDS AND REPORTS**

16. Sampling points.
17. Use of sampling points.
18. Calculation of loadings.
19. Reports on sampling points.

**PART VII
OFFENCES AND PENALTIES**

20. Penalties.

**PART VIII
GENERAL PROVISIONS**

21. Register of Water Effluents.
22. Biological integrity.
23. Spill or accidental discharge.
24. Standard methods of analysis of effluents.

SCHEDULE 1 - List of discharges to which these Regulations do not apply.

SCHEDULE II – List of Substances the Limits of which are not

to be specified.

SCHEDULE III – Standard Methods of Analysis of Effluent.

PART 1
PRELIMINARY

Citation. 1. These Regulations may be cited as the Environmental Protection (Water Quality) Regulations.

Interpretation. 2. In these Regulations, unless the context otherwise requires –

“activity” means any of the activities prescribed in regulation 4(1);

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, fish farming, the breeding and keeping of livestock (including any animal kept for the production of food, clothing or for the purpose of farming of land), the use of land as grazing land, meadow land, market gardens and nursery grounds, the use of lands for woodlands where that is ancillary to the farming land for other purposes, the harvesting and utilisation of forest resources, and aquaculture;

“applicant” means a person who applies for an environmental authorisation for the purposes of these Regulations and includes a person appointed under a duly registered power of attorney;

“application” means an application for an environmental authorisation made in accordance with regulation 4;

“commerce” means of or pertaining to business, trade or manufacture;

“compliance schedule” means a schedule of measures including a sequence of interim requirements that lead to compliance with these Regulations;

“discharge” means to release, drain, deposit, spray, inject, abandon, spill, leak, pour, throw, dump, place, emit or cause the seepage of, and includes any entry of, a water contaminant;

“facility” includes -

- (a) any office, room or building, and any place, spot or land, whether open or enclosed;
- (b) any aircraft, hovercraft, ship, boat, pleasure craft or other vessel whether afloat or not, and any vehicle;
- (c) any electrical installation, subterranean installation or installation on land including the foreshore and other land intermittently covered by water;
- (d) any offshore installation and any other installation, whether floating or resting on the seabed or the subsoil thereof or resting on other land covered with water or the subsoil thereof; and
- (e) any dam or other installation designed to hold liquid or store it on a long-term basis;

“industrial” means of or pertaining to the manufacture, processing, handling, transport, importation, storage or disposal of materials (including the extraction and conversion of mineral resources, raw materials, materials in the process of manufacture, manufactured materials, by-products and any waste or waste materials whether hazardous or not);

“inland waters” includes any reservoir, pond, lake, river, stream, creek, canal, drain, spring, well, any part of the sea that are on the landward side of the territorial baselines, and any other body of natural or artificial surface or subsurface water;

“institution” includes health care establishments, medical facilities, hospitals, schools and zoos;

“parameter limit” means the result of the analysis of any of the chemical factors which the Agency may specify;

“Register” means the Register of Water Effluents established under regulation 21 (1);

“sewage” means any liquid waste or wastewater discharge from residences, public buildings, institutions or other buildings, including human waste products or liquids containing chemicals in solution and includes an installation for the treatment of waste water, industrial or domestic waste;

“sludge” means any viscous, semisolid or residue generated from a process.

PART II POWER TO ISSUE ENVIRONMENTAL AUTHORISATION

Registration.

3. Every person who discharges or causes or permits

to discharge effluent shall, subject to regulation 5, register with the Agency

General requirement to apply for an authorisation.

4. (1) Any person who, at the commencement of these Regulations, in the construction, installation, operation, modification or extension of any facility relating to –

- (a) industry;
- (b) commerce;
- (c) agriculture;
- (d) any institution; or
- (e) sewage,

discharges any effluent, shall, subject to paragraph (3), apply to the Agency for an environmental authorisation within one year of the commencement of these Regulations in accordance with the provisions of regulation 17 of the Environmental Protection (Authorisations) Regulations.

(2) A person proposing to engage in any of the activities mentioned in paragraph (1) shall submit an application to the Agency at least ninety days before the date on which the discharge is due to commence.

(3) The Agency may at any time after the commencement of these Regulations, direct a person who engages in any of the activities specified in paragraph (1) to submit an application to the Agency for an environmental authorisation.

(4) Any person who contravenes this regulation shall be guilty of an offence and shall be liable on

summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Restrictions on the discharge of effluents.

5. (1) No person who engages in any of the activities mentioned in regulation 4 shall discharge or cause or permit the discharge of any effluent in or on any inland or coastal waters or on any land unless that person holds an environmental authorisation.

First Schedule.

(2) Subject to the provisions of regulation 4, these Regulations shall not apply to discharges of effluent specified in the First Schedule.

(3) Notwithstanding the generality of paragraph (2), discharges of the following wastes regardless of volume shall be prohibited –

- (a) any discharge of any effluent in toxic amounts including substances that may accumulate to toxic amounts during the expected life of the organisms in receiving waters;
- (b) any discharge of radiological or chemical wastes from research and medical facilities;
- (c) any discharge which would substantially impair anchorage and navigation;
- (d) any discharge of sewage from vessels while moored, berthed or underway in the inland or coastal waters of Guyana except through a properly functioning discharge device approved by the Agency; and

- (e) any other discharge which the Agency identifies as having a negative impact on human health and the environment.

(4) Paragraph (3) shall not apply where the discharges are permitted in accordance with a compliance schedule.

(5) Any person who discharges or causes or permits the discharge of any effluent without first having obtained an environmental authorisation shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Restrictions on disposal of sludge.

6. No person shall discharge or cause or permit the discharge of any sludge that is generated from any facility in or on any inland or coastal waters or on any land unless that person holds an environmental authorisation.

PART III PARAMETER LIMITS AND CONTROL OF EFFLUENT

Change in operating conditions.

7. (1) Where at any facility a failure to operate in the normal manner or a change in operating conditions occurs, or a shut-down of the source or part thereof is made for some purpose, resulting in the discharge of effluent that may result in quantities or concentrations in excess of those allowed in regulation 9, the owner or operator of the source of water contamination shall-

- (i) immediately notify the Agency and furnish to the Agency with the particulars of such failure, change or

shut-down; and

- (ii) furnish the Agency with the particulars in writing, as soon as is practicable, of such failure, change or shut down.

(2) If the Agency considers it advisable, it may authorise, in writing, the continuance of such operation for such period of time as it considers reasonable in the circumstances and may impose upon the owner or operator such terms and conditions for such continued operation as it considers necessary in the circumstances.

Application for variance.

8. A person granted an environmental authorisation may make an application to the Agency to vary any provision thereof on submission of supporting particulars in accordance with the provisions of regulation 20 of the Environmental Protection (Authorisations) Regulations.

Parameter limits of effluent discharges.

9. (1) The Agency may at any time after the commencement of these Regulations, establish the parameter limits of effluent which may be discharged into any inland or coastal waters or land of Guyana with respect to any or all of the substances specified in the Second Schedule.

Second Schedule.

(2) No new facility shall discharge any substance, analysed in accordance with regulation 24, in concentrations greater than those established as parameter limits under paragraph (1).

(3) The Agency, in imposing conditions on an environmental authorisation, shall be guided by the parameter limits established under paragraph (1).

(4) The Agency shall, on a case-by-case basis, fix in a compliance schedule, the date and the manner in which every existing facility shall comply with the parameter limits established under paragraph (1).

(5) The Agency may at any time amend the parameter limits established under paragraph (1).

(6) Any person who contravenes paragraph (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Agency may waive applicability.

10. Notwithstanding the provisions of regulation 9 the Agency may in respect of any facility waive the applicability of any parameter limit or any contaminant mentioned in the Second Schedule to any environmental authorization.

Point of discharge.

11. (1) The point or source for the discharge of effluent from any facility shall be determined by the Agency.

(2) Wherever the concentration of any effluent discharged or to be discharged is mentioned in these Regulations, the reference, unless the context otherwise requires, is to the concentration as at the point of discharge determined in paragraph (1).

PART IV

NEW SOURCES OF EFFLUENT DISCHARGE

Prohibition against new and altered sources of effluent discharge.

12. (1) No person obtaining a variance from the Agency in relation to his environmental authorisation shall –

- (a) carry out any work on facilities that may result in a new source of effluent discharge; or
- (b) construct on any land or building

designed to be used for a purpose that may cause the land or building to result in a new source of effluent discharge.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy thousand dollars nor more than three hundred thousand dollars and to imprisonment for three months.

Requirement and approval of plans.

13. (1) Where a person intends to undertake any construction after obtaining a variance from the Agency he shall make application to the Agency therefor together with the fee prescribed in regulation 8 of the Environmental Protection (Authorisations) Regulations 2000 .

(2) The Agency may grant such application either subject to any condition that the Agency considers necessary and may require the applicant—

- (a) to repair, alter, replace or install control equipment;
- (b) to conduct a monitoring programme at his own expense or bear the cost of such programme within such period or at such time and in such manner as the Agency may specify; or
- (c) to do such other thing as the Agency may deem reasonably necessary to protect the land and waters of Guyana.

PART V
FEES

Fee payable for registration, etc.

14. (1) The fee to be charged for an application for registration, an environmental authorisation, a variance for an application to carry out works, construct any building, erection or installation shall be in accordance with the provisions of regulation 8 of the Environmental Protection (Authorisations) Regulations.

(2) An effluent-related amount computed according to the amount and concentration of effluent discharged shall be charged in addition to the fee for an environmental authorisation under the Environmental Protection (Authorisations) Regulations.

(3) The fee shall accompany the application and shall not be refundable.

(4) The effluent-related amount referred to in paragraph (2) shall not become due until called for by the Agency.

Waiver of fee.

15. (1) If the Agency is satisfied that research on effluent discharge or treatment of a kind or scale that is likely to benefit the cause of environmental protection is being or is to be carried out at any authorised premises, it may, with the approval of the Minister, wholly or partly waive any effluent-related amount payable by virtue of regulation 14.

(2) In deciding on the extent of the waiver, the Agency shall be guided –

- (a) by a consideration of how much research work is involved; or
- (b) by a consideration of the amount,

physical and chemical characteristics of the effluent discharged or to be discharged.

PART VI SAMPLING, RECORDS AND REPORTS

Sampling points.

16. (1) A holder of an environmental authorisation shall establish such sampling point or points, inspection chambers, flow meters, and recording and other apparatuses as an effluent sampling point as the Agency may, from time to time, require.

(2) If the Agency is satisfied, on the basis of written submissions from the holder of an environmental authorisation that one or more of the circumstances described in paragraph (3) exists at the holder's facility, with the result that it is impractical to maintain or use a sampling point established at the facility under this regulation, the Agency may give the holder of the authorisation a written permission to eliminate the sampling point.

(3) For the purposes of paragraph (2), the circumstances at the facility that may make it impractical to maintain or use a sampling point include –

- (a) a process change or redirection of or change in the character of an effluent stream has occurred or is expected to occur at the facility;
- (b) equipment used for sampling or flow measurement at the sampling point is damaged or non-functional;
- (c) the effluent flowing in the stream on which the sampling point was

established under these regulations has been or is expected to be permanently eliminated; or

- (d) access to sampling point is restricted or dangerous or both.

(4) Where the holder of an environmental authorisation is permitted to eliminate a sampling point because of a circumstance described in paragraph (3)(a) or (b), the holder shall, within ninety days after the day on which the sampling point is eliminated, establish a replacement sampling point.

(5) The replacement sampling point shall be established on the effluent stream from which the sampling point was eliminated, at a location approved in writing by the Agency.

(6) The Agency shall not approve a location for the replacement sampling point unless it is satisfied that monitoring at the new location would yield results that would reflect the level of discharge of each limited parameter, merged parameter and assessment parameter from the facility as reliably as did monitoring at the eliminated sampling point.

(7) The holder of an environmental authorisation who replaces a sampling point under paragraph (4) has all the obligations in connection with the replacement sampling point that the holder had in connection with the eliminated sampling point.

Use of sampling points.

17. A holder of an environmental authorisation shall use the sampling points established under this Part for all sampling required under these Regulations.

Calculation of

18. For the purposes of performing a calculation of

loadings.
[11 of 1984]

an effluent loading, the holder of an environmental authorisation shall use the actual analytical result obtained by a laboratory that is certified by the Guyana National Bureau of Standards established by section 3 of the Guyana National Bureau of Standards Act.

Reports on
sampling points.

19. (1) A holder of an environmental authorisation shall submit to the Agency a map showing the sampling points established under this regulation at the holder's facility.

(2) A holder of an environmental authorisation who eliminates a sampling point at the holder's facility but is not required to replace the sampling point shall, within thirty days after the day on which the sampling point is eliminated, submit a written notice to the Agency describing where the sampling point was previously located, together with a revised list and plot plan without the sampling point.

(3) Within thirty days after replacing a sampling point, the holder of the environmental authorisation shall submit a written notice to the Agency describing the location of the replacement sampling point, together with a revised list and plot plan showing the replacement sampling point.

PART VII OFFENCES AND PENALTIES

Penalties.

20. Where any person commits an offence under these Regulations in respect of which a penalty is not prescribed, such person shall be liable on summary conviction to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars.

**PART VIII
GENERAL PROVISIONS**

Register of Water
Effluents.

21. (1) The Agency shall establish and maintain a Register of Water Effluents.

(2) The Register shall contain information identifying the quantity, conditions or concentrations relevant to the identification of each effluent.

(3) The Agency shall cause the Register to be updated periodically and published from time to time in the *Gazette* and in one or more daily newspapers having wide circulation in Guyana.

Biological integrity.

22. (1) The Agency may for the purpose of ensuring the biological integrity of the waters of Guyana –

- (a) classify receiving inland or coastal waters according to present and projected future use;
- (b) determine the physical, chemical and biological water quality standards according to its different uses;
- (c) establish a scheme for the final disposal of effluent discharges.

(2) Any scheme for the final disposal of effluent discharges referred in paragraph (1) (c) shall be made according to the degree and type of treatment, soil, rock, and topographical conditions and the location of any proposed development or industrial activity.

(3) The methodology employed in developing any scheme for the final disposal of effluent discharges

shall be such that –

- (a) any probability of the contamination of existing or potential sources of water supplies (ground or surface water) would be minimised;
- (b) threats to public health would be reduced; and
- (c) the possibility of the contamination, actual or potential, to the waters of any bathing beach, shellfish breeding grounds or waters used for recreational purposes would be reduced or eliminated.

Spill or accidental discharge.

23. (1) In the event of the occurrence of any spill or accidental discharge of any effluent mentioned in the Register of Water Effluents mentioned in regulation 21 which either directly or indirectly gains or may gain access onto any inland or coastal waters or any land, the person or persons responsible for such occurrence shall immediately inform the Agency of the occurrence.

(2) The person responsible for the occurrence of the spill or accidental discharge referred to in paragraph (1) shall be required to contain, cleanse or abate the spill or accidental discharge or to recover substances involved in the spill or accidental discharge in a manner satisfactory to the Agency.

(3) The Agency shall estimate any damage caused by the spill or accidental discharge and may recover all costs and expenses from the person responsible for the occurrence of the spill or accidental discharge.

Standard methods of analysis of effluents.

24. For the purposes of these Regulations, the effluent spilled or discharged into any inland or coastal

Third Schedule. waters shall be analysed in accordance with the methods contained in the latest edition of the publication listed in the Third Schedule or in accordance with such other methods of analysis as the Agency thinks fit.

Reg. 5

FIRST SCHEDULE

LIST OF DISCHARGES TO WHICH THESE REGULATIONS DO NOT APPLY

Discharges from non-commercial motor vehicles;

Discharges from households except where such households contain industrial or commercial facilities;

Any housing or commercial development or both of less than 30 units, without affecting the generality of 2(3).

Processing, manufacturing, washing or servicing of any other products or goods –

- (1) that produce effluent or less than 60 cubic metres per day;
- (2) that the effluent of which does not contain those contaminants listed as parameters (vi) to (xvi) in the first column of the Third Schedule;
- (3) where the total load of biochemical oxygen demand

Third Schedule

of the effluent fixed at 20 degrees centigrade for 5 days or suspended solids or both, shall not exceed 6 kilogrammes per day (concentration of 100 milligrammes per litre).

Reg. 9

SECOND SCHEDULE**LIST OF SUBSTANCES THE LIMITS OF WHICH ARE TO BE SPECIFIED**

(i)	Ammonical Nitrogen
(ii)	Sulphate
(iii)	Chloride
(iv)	Cobalt
(v)	Colour
(vi)	Detergents, Anionic
(vii)	Fluoride (as F)
(viii)	Molybdenum
(ix)	Phosphate (as P)
(x)	Polychlorinated Biphenyls
(xi)	Selenium
(xii)	Silver
(xiii)	Beryllium
(xiv)	Vanadium
(xv)	Radioactive Material
(xvi)	Nitrate Nitrogen
(xvii)	Temperature
(xviii)	Pesticides, fungicides, herbicides, insecticides, rodenticides, fumigants or any other biocides or any other

	chlorinated hydrocarbons
(xix)	A substance that either by itself or in combination with other waste or refuse may give rise to any gas, fume or odour or substance which causes or is likely to cause pollution

THIRD SCHEDULE

Reg. 24

STANDARD METHODS OF ANALYSIS OF EFFLUENT

1. "Standard Methods of the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation of the United States; or
 2. "Analysis of Raw, Potable and Wastewaters" published by the Department of the Environment of the United Kingdom.
-

Reg. 7/2000.

**ENVIRONMENTAL PROTECTION (HAZARDOUS
WASTE MANAGEMENT) REGULATIONS**

made under section 68

ARRANGEMENT OF REGULATIONS

REGULATION

**PART I
PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II
POWER TO ISSUE ENVIRONMENTAL
AUTHORISATION**

3. Notice of activity.
4. General requirement to apply for an authorisation.
5. Grounds for refusal to grant authorisation.
6. Surrender of authorisation.
7. Extension of effective date.
8. Change of ownership.
9. Transfer of authorisation.
10. Change in operating conditions.
11. Application for variance.

**PART III
REPORTING, RECORDKEEPING AND OBTAINING
INFORMATION**

12. Report on activities.
13. Registers of information.

**PART IV
EMERGENCY PREPAREDNESS PLAN AND
TRANSPORTATION**

REGULATION

14. Availability of analyses.
15. Requirement for emergency preparedness plan.
16. Communicating plan to staff, contractors, etc.
17. Notification and clean-up plan.
18. Waste analysis plan.
19. Variation of plan.
20. Accumulation of hazardous wastes.
21. Requirement for manifest.
22. Signing of manifest.

**PART V
OFFENCES AND PENALTIES**

23. Offences to store, etc.
24. Use of imported chemical.
25. Unlawful possession.
26. Contamination of any place.
27. Disposal in open dump.
28. Transportation of wastes.
29. Accumulation in excess.
30. General provision as to penalties.

**PART VI
ENFORCEMENT**

31. Return to owner.
32. Declaration of hazardous waste disposal site.

**PART VII
GENERAL PROVISIONS**

33. Register of Hazardous Waste.
34. Spill or accidental damage.
35. Savings of laws.
36. Regulations do not apply.
37. Amendment to Schedules.

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

REGULATION

38. Guidelines for storage, treatment, handling, etc.
39. Closure Guidelines.

SCHEDULE I - List of Hazardous Wastes to be Controlled.

SCHEDULE II - List of Hazardous Characteristics.

SCHEDULE III - Notice of Activity

**PART I
PRELIMINARY**

Citation.

1. These Regulations may be cited as the Environmental Protection (Hazardous Waste Management) Regulations.

Interpretation.

2. (1) In these Regulations, unless the context otherwise requires—

"clinical waste" means—

- (a) any part of the human body including tissues and bodily fluids, but excluding fluids, extracted teeth, hair, nail clippings and the like that are not infectious;
- (b) any part of the carcass of an animal infected with a communicable disease,
- (c) non-anatomical waste infected with communicable disease; or
- (d) any waste that is generated in the diagnostic, treatment or

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

immunization of human beings or animals and related activities that include research or autopsies;

"disposal" means the discharge, deposit, injection, dumping or placing of any hazardous waste into or on any land so that it may enter the environment, be emitted into the air or discharged into any waters, including groundwater;

"flammable waste" means a waste that is either solid, liquid, an oxidizing substance or an ignitable compressed gas, which, under certain conditions may be readily combustible or may cause or contribute to fire through friction, absorption of moisture or spontaneous chemical changes and when ignited, burns so vigorously and persistently that it creates a danger;

"generator" means any person whose industrial, commercial or other activity produces hazardous wastes;

"hazardous waste" means a waste or combination of wastes which, because of its quantity, concentration or physical, chemical or infectious characteristics, may pose a substantial hazard to human health and belong to any category contained in Schedule I unless they do not contain any of characteristics contained in Schedule II and includes waste that is—

Schedule I
Schedule II.

- (a) hazardous industrial waste;
- (b) acute hazardous waste chemical;
- (c) hazardous waste chemical;
- (d) severely toxic waste;

- (e) flammable waste;
- (f) corrosive waste;
- (g) reactive waste;
- (h) radioactive waste;
- (i) clinical waste; or
- (j) leachate toxic waste, or polychlorinated biphenyl waste, and includes a mixture of acute hazardous waste chemical, hazardous waste chemical, pathological waste, radioactive waste or severely toxic wastes and any other waste or hazardous material;

"hazardous waste chemical" means a commercial waste chemical having a generic name specified in Schedule I;

"hazardous waste generation" means the act or process of producing hazardous waste;

"hazardous waste management" means the systematic control of the collection, source, separation, accumulation, transportation, processing, treatment, recovery and disposal of hazardous wastes;

"incinerator waste" means the residue from incineration, other than incinerator ash and fly-ash;

"land filling" means the disposal of waste by deposit, under controlled conditions, on land or on land covered by water, and includes compaction of the waste into a cell and covering the waste with cover materials at regular intervals;

"leachate toxic waste" means a waste producing leachate containing any of the contaminants specified in Schedule I;

"liquid industrial waste" means waste that is both liquid and industrial waste but does not include-

- (a) hauled sewage;
- (b) waste from the operation of sewage works;
- (c) waste from the operation of water works;
- (d) waste that is produced in any month in an amount less than twenty-five litres or otherwise accumulated in an amount less than twenty-five litres;
- (e) waste directly discharged by a generator from a waste generation facility into a sewage works or sewage system;
- (f) waste that results directly from food processing and preparation operations, including food packaging, food preserving and restaurants;
- (g) drilling fluids and produced waters associated with the exploration, development or production of crude oil or natural gas;

(h) processed organic waste; or

(i) asbestos waste;

"manifest" means the form used for identifying the quantity, composition, origin, routing and destination of hazardous waste during its transportation from the point of generation to the point of storage, treatment or disposal;

"medical waste" means any waste that is generated in the diagnostic, treatment or immunization of human beings;

"mixed wastes" means waste that contains both hazardous and a mixture of acute hazardous waste chemical, hazardous waste chemical, pathological waste, radioactive waste or severely toxic wastes and any other waste or hazardous material;

"open dump" means any facility where waste is disposed without cover material being applied at regular intervals and which is not a sanitary landfill or a facility for the disposal of hazardous waste;

"reactive waste" means a waste that—

(a) is normally unstable and readily undergoes violent changes without detonating;

(b) reacts violently with water;

(c) forms potentially explosive mixtures with water;

(d) when mixed with water, generates toxic gases, vapours or fumes in a

quantity sufficient to present danger to human health or the environment;

- (e) is a cyanide or sulphide bearing waste which, when exposed to pH conditions between two and twelve and a half points, can generate toxic gases, vapours or fumes in a quantity which is sufficient to present danger to human health and the environment;
- (f) is capable of detonation or explosive reaction if it subjected to a strong initiative source or if heated under confinement; or
- (g) is readily capable of detonation or explosive decomposition or reaction at a standard temperature and pressure;

"storage" means the containment of hazardous waste, either on a temporary' basis or for a period of years, in a manner that does not constitute disposal;

"transporter" means any person engaged in the transportation of hazardous waste;

"treatment" means any method or process designed to change the physical, chemical or biological character or composition of any hazardous waste in order to render the waste non-hazardous, safer for transport, including reduction in volume or amenable for recovery or storage.

PART II
POWER TO ISSUE ENVIRONMENTAL
AUTHORISATION

Notice of
activity.

3. (1) Any person who, at the time of the commencement of these Regulations, is in operation of a facility that generates, treats, stores, disposes or transports hazardous waste shall submit a duly completed notice in the form set out in Schedule III to the Agency.

(2) The Agency shall publish the notification mentioned in paragraph (1) at least twice in a daily newspaper having wide circulation in Guyana and members of the public shall have at least sixty days from the date of the last publication to make objections to the operations of the facility to the Agency.

(3) The Agency shall, in deciding to grant an environmental authorisation in accordance with regulation 18 of the Environmental Protection (Authorisation) Regulations 2000, take into account the submissions that have been made to it under paragraph (2).

(4) The Agency shall send a copy of the objections to the person who has given notice of activity and thereupon such person shall make application to the Agency under regulation 4.

General
requirement to
apply for an
authorisation.

4. (1) Any person who at the time of the commencement of these Regulations is in operation of a facility that generates, transports, treats, stores or disposes of a hazardous waste, shall, subject to paragraph (3), before commencing any action related thereto, submit an application to the Agency for an environmental authorisation within three years of the commencement of these Regulations or such other time as the Agency may determine.

(2) Any person who proposes to operate a facility

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

that generates, transports, treats, stores or disposes of hazardous waste, shall, subject to paragraph (3), before commencing any action related thereto, submit an application to the Agency for an environmental authorisation within three years of the commencement of these Regulations or such other time as the Agency may determine.

(3) The fee prescribed in regulation 8 of the Environmental Protection (Authorisations) Regulations shall accompany the application.

(4) The Agency may at any time request a person who engages in any of the activities specified in paragraph (1) to submit a notification of activity and an application to the Agency for an environmental authorisation.

(5) An application for an environmental authorisation shall be in accordance with the provisions of regulation 17 of the Environmental Protection (Authorisations) Regulations.

(6) In addition to the information that is required for a grant of an environmental authorisation prescribed in regulation 17 Environmental Protection (Authorisations) Regulations, of the applicant shall provide written evidence of financial capability.

(7) The requirement in paragraph (1) for an environmental authorisation shall not apply to—

- (a) facilities that generate or store hazardous wastes in quantities less than one hundred kilograms per month;
- (b) facilities that generate less than one kilogram of acutely hazardous wastes

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

per month;

- (c) facilities that accumulates up to one thousand kilograms of hazardous wastes onsite at any time.

(8) Any person who contravenes this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Grounds for refusal to grant authorisation.

5. The Agency shall, in addition to the grounds specified in regulation 13 of the Environmental Protection (Authorisations) Regulations, refuse to grant an environmental authorisation to which these Regulations relate taking into account the objections made in regulation 3 where—

- (a) the transportation arrangements, whether by land, sea or air are inadequate and present a serious risk of injury or damage to human health or the environment;
- (b) the storage, treatment, operation or disposal methods present a serious risk of injury or damage to health or the environment; or
- (c) the staff or contractors engaged in the handling of such wastes are not technically trained to perform the relevant tasks.

Surrender of authorisation.

6. (1) An environmental authorisation may be surrendered by a holder to the Agency at any time but, in the case of an authorisation to operate a facility to store or treat

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

hazardous waste, only if the Minister accepts such surrender.

(2) The following provisions apply to the surrender and acceptance of the surrender of an authorisation to operate a facility in which hazardous waste is stored or treated –

- (a) The holder of an environmental authorisation who desires to surrender it shall make an application for that purpose to the Agency in such form, giving such information and accompanied by such information as the Agency may request and accompanied by the fee as specified in regulation 8 of the Environmental Protection (Authorisations) Regulations.
- (b) Upon receipt of such application the Agency shall –
 - (i) inspect the land to which the authorisation relates, and
 - (ii) may require the holder of the authorisation to furnish further evidence or information.
- (c) The Agency shall determine whether or not it is likely or unlikely that the condition of the land, so far as that condition is the result of the use of the land for storage or treatment of hazardous waste (whether or not in pursuance of the authorisation), will cause pollution of the environment or

harm to human health.

- (d) If the Agency is satisfied that the condition of the land is unlikely to cause the pollution or harm mentioned in paragraph (iii) above, then it shall, subject to paragraph (e), accept the surrender of the environmental authorisation; but otherwise the Agency shall refuse to accept it.
- (e) Where the Agency proposes to accept the surrender of an environmental authorisation to store or treat hazardous waste, it shall, before it does so –
 - (i) refer the proposal to the Ministry responsible for Health; and
 - (ii) consider any representations about the proposal that is made to it during the allowed period;

and if the Ministry referred in paragraph 2 (e)(i) advises that the surrender of the environmental authorisation be not accepted the Agency or the holder of the authorisation may refer the matter to the Environmental Appeals Tribunal.

(3) Where the surrender of an environmental authorisation is accepted under this regulation, the Agency shall issue to the holder of the authorisation, a certificate of completion stating that it is satisfied and, on the issue of such certificate the environmental authorisation shall cease to have effect.

(4) If within the period of three months beginning

on the date on which the holder of the environmental authorisation notifies the Agency of his desire to surrender the authorisation, or within such longer period as the Agency and the holder of the authorisation may at any time agree in writing, the Agency has neither issued a certificate of completion nor given notice to the holder of the authorisation that the Agency has rejected his proposal, the Agency shall be deemed to have rejected the proposal.

Extension of effective date.

7. (1) A holder of an environmental authorization may be granted an extension of the effective date for the application of any condition of an authorization with regard to disposal of hazardous waste.

(2) The holder of the authorisation to which paragraph (1) relates shall demonstrate –

- (a) that he has failed to contact treatment, recovery or disposal facilities to manage his wastes; and
- (b) that he has entered into a contractual commitment or otherwise to provide alternative treatment.

Change of Ownership.

8. Every holder of an environmental authorisation to operate a facility shall notify the Agency in writing of any change of name or ownership of the facility occurring after the commencement of these Regulations, within thirty days after the end of the month in which the change occurs.

Transfer of authorisation.

9. An environmental authorisation may be transferred to another person in accordance with the provisions of regulation 21 of the *Environmental Protection (Authorisations) Regulations*.

Change in operating

10. (1) Where at any hazardous waste facility a

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

conditions. failure to operate in the normal manner or a change in operating conditions occurs, or a shut-down of the facility or part thereof is made for some purpose resulting in the generation of hazardous wastes in quantities or concentrations in excess of those allowed in an environmental authorisation the owner or operator of the hazardous waste facility shall –

- (a) immediately notify the Agency and furnish it with particulars of such failure, change or shut-down; and
- (b) furnish the Agency with particulars in writing, as soon as is practicable, of such failure, change or shut-down.

(2) If the Agency considers it advisable, it may authorise, in writing, the continuance of such operation for such period as it considers reasonable in the circumstances and may impose upon the owner or operator such terms and conditions for such continued operation as it considers necessary in the circumstances.

Application for variance.

11. (1) A person granted an environmental authorisation may make an application to the Agency to vary any provision thereof on submission of supporting particulars in accordance with the provisions of regulation 20 of the Environmental Protection (Authorisations) Regulations.

(2) The Agency shall, in addition to the requirements for variance specified in regulation 20 of the Environmental Protection (Authorisations) Regulations publish the information in paragraph (1) in at least one daily newspaper having wide circulation in Guyana and members of the public shall have at least thirty days from the date of the publication of such notice to make any submissions to the Agency.

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

(3) The Agency shall take into account the submissions that have been made under paragraphs (1) and (2) in making its determination.

(4) The Agency shall publish its decision in at least one daily newspaper having wide circulation in Guyana.

PART III
REPORTING, RECORD KEEPING AND OBTAINING
INFORMATION

Report on activities.

12. (1) Within two years after the commencement of these Regulations, every holder of an environmental authorisation shall, no later than forty-five days after the end of the operating year, prepare a report relating to the activities for the previous calendar year including –

- (a) the identification information of the facility;
- (b) types and quantities of hazardous waste generated;
- (c) data concerning off-site shipments of waste;
- (d) any applied treatment standards;
- (e) a summary of any accidents that may have occurred and any action taken;
- (f) any waste minimization efforts undertaken by the generator;
- (g) a pollution prevention plan for the facility; and

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

(h) any other matter the Agency may require.

(2) The report prepared under paragraph (1) shall be submitted to the Agency.

(3) Every holder of an environmental authorisation shall ensure that each report prepared under paragraph (1) is available to any authorised person at the facility on request during normal working hours.

(4) A report to which this regulation refers shall be submitted both in electronic format acceptable to the Agency and in hard copy generated from the electronic format and shall be signed by the holder of the authorisation.

(5) Any person who fails to comply with the requirements of paragraphs (1) to (4) shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than ten thousand dollars nor more than fifty thousand dollars.

Registers of information.

13. (1) Every person who is granted an environmental authorisation shall, where applicable, keep books, documents, records or things showing, as the case may be –

- (a) the amount of hazardous wastes he has generated, stored, treated, transported or disposed of;
- (b) the dates pertinent to the activities referred in paragraph (a);
- (c) signed copies of manifests;
- (d) records of test results, waste analyses,

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

permit and standard conditions required by any authorisation;

- (e) such other information as the Agency may require.

(2) The holder of the authorisation shall keep such information to which paragraph (1) refers, for a period of not less than three years or for such other extended time as the Agency may determine.

PART IV EMERGENCY PREPAREDNESS PLAN AND TRANSPORTATION

Availability of analyses.

14. A holder of an environmental authorisation shall use all reasonable efforts to ensure that analyses required in accordance with these Regulations are completed as soon as reasonably possible and that the results of those analyses are made available to the holder of the authorisation as soon as reasonably practicable.

Requirements for emergency preparedness plan.

15. (1) Within two years after the commencement of these Regulations, every holder of an environmental authorisation to generate or transport hazardous waste or operate a facility shall submit an emergency preparedness plan to the Agency for approval.

(2) The plan specified in paragraph (1) shall identify the mechanisms that shall be put into practice to minimize hazards from fires, explosions or accidental releases of hazardous waste.

Communication of plan to staff, contractors, etc.

16. The emergency preparedness plan shall be communicated to staff and contractors of the facility and shall include information in respect of –

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

- (a) accident prevention procedures;
- (b) first person response;
- (c) notification procedures;
- (d) location of clean-up equipment;
- (e) an analysis of potential accidents and responses, and;
- (f) materials safety data sheets for all materials which could be spilled.

Notification and
clean-up plan.

17. Every holder of an environmental authorisation to generate or transport hazardous waste or operate a facility shall submit, to the Agency, a plan showing –

- (a) the location of all materials stored;
and
- (b) a notification and clean-up plan for each proposed site of operation in the event of a spill.

Waste analysis
plan.

18. (1) Within two years after the commencement of these Regulations, every holder of an environmental authorisation to operate a facility shall submit a waste analysis plan to the Agency for approval.

(2) The plan specified in paragraph (1) shall –

- (a) describe the procedures that shall be adopted in the treatment of hazardous waste;
- (b) contain information on the method of

treatment that shall be used; and

- (c) provide instructions on the proper disposal and handling of such waste.

(3) The plan specified in paragraph (1) shall be kept at the facility and shall at all times be available for inspection by authorised officers of the Agency.

Variation of plan

19. (1) Subject to paragraph (2), the Agency may at any time vary the requirements of a waste analysis plan.

(2) Where the holder of an environmental authorisation establishes to the satisfaction of the Agency, that the level of treatment specified in the approved waste analysis plan is inappropriate or that the method specified is not technologically feasible, the Agency may vary the approved treatment standard, taking into account the protection of human health and the environment.

Accumulation of hazardous wastes.

20. (1) The Agency shall determine the length of time that a generator may accumulate hazardous wastes at the facility prior to its treatment or transportation to a disposal site.

(2) In making its determination under paragraph (1) the Agency shall take into account the amount of hazardous waste produced by the facility and the hazard associated with the accumulation of such wastes at the site.

(3) A generator shall label each container or tank, which contains hazardous waste, that is being accumulated and indicate the date on which such accumulation commenced.

Requirement for manifest.

21. (1) Every holder of an environmental authorisation who transports, or offers to transport hazardous

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

waste for treatment, storage or disposal shall, before commencing any such activity, submit a hazardous waste manifest to the Agency.

(2) The manifest shall contain the following particulars –

- (a) the name and address of the waste generator;
- (b) the name and description of the waste and hazard class;
- (c) the number and type of containers;
- (d) the quantity of waste being transported, and;
- (e) the name and address of the facility designated to receive the waste.

(3) Every person that manages such wastes shall sign the manifest and retain a copy for a period of three years.

(4) The copy of the manifest shall be retained on-site at the facility.

Signing of
manifest.

22. (1) A hazardous waste transporter shall sign and date the manifest upon receiving the hazardous waste from the generator.

(2) Upon the completion of the shipment of hazardous waste to its final destination, a hazardous waste transporter shall provide a copy of the manifest mentioned in regulation 21 to the generator of the waste.

PART V
OFFENCES AND PENALTIES

Offence to store,
treat, etc.

23. (1) Every person who transports, generates or operates a facility to treat, store or dispose of hazardous waste before obtaining an environmental authorisation shall be guilty of an offence and liable on summary conviction to a fine of not less than seventy thousand dollars nor more than three hundred thousand dollars and to imprisonment for three months and shall be disqualified from obtaining an authorisation for such period as the court determines.

(2) Any person who, while disqualified from holding an environmental authorisation obtains or attempts to obtain such authorisation shall be guilty of an offence and liable on summary conviction to a fine of not less than three hundred thousand dollars nor more than seven hundred and fifty thousand dollars and to imprisonment for one year.

(3) A person convicted of an offence under paragraph (2) shall, without prejudice to the power of the court to order a longer period of disqualification, be disqualified for a period of not less than twelve months from the date of conviction, from holding or obtaining an environmental authorisation, and on a second conviction for a like offence shall be permanently disqualified from obtaining an authorisation.

Use of imported
chemicals.

24. Every person who knowingly uses a chemical substance or mixture which is imported, manufactured, processed or distributed in contravention of these Regulations shall be guilty of an offence and liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than seven hundred and fifty thousand dollars and to imprisonment for one year.

Unlawful

25. (1) Every person who is in unlawful possession of,

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

possession or has unlawfully under his control, any hazardous waste to which these Regulations relate shall be guilty of an offence and liable on summary conviction to a fine of not less than sixty thousand dollars nor more than one hundred and fifty thousand dollars.

(2) It shall be a defence for any person charged under paragraph (1) to show at the time that -

- (a) when the hazardous waste came into that person's possession, that person made such enquiries, as in the circumstances of the case were reasonable, to ascertain whether the hazardous waste was a waste to which these Regulations apply; and
- (b) when the alleged offence was committed that person had no reason to believe that the hazardous waste was waste to which these Regulations apply.

Contamination of any place.

26. Every person who willfully or negligently and with the knowledge that serious environmental harm will or might result causes the contamination of any place, except a declared hazardous waste disposal site, shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than eight hundred thousand dollars nor more than two million dollars and to imprisonment for five years.

Disposal in open dump.

27. (1) Within two years after the commencement of these Regulations any person who disposes of hazardous waste in a landfill other than a hazardous waste landfill disposal site thereby causing potential environmental harm shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than three hundred thousand dollars and to imprisonment for three months.

(2) Potential environmental harm is to be treated as serious environmental harm if it involves actual or potential harm to the health or safety of human beings that is of a high impact or on a wide scale.

Transportation
of wastes.

28. (1) Any person who transports hazardous waste without having a manifest in his possession shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than sixty thousand dollars nor more than one hundred and fifty thousand dollars.

(2) Any person who transports hazardous wastes without first obtaining an identification number from the Agency or complying with the transportation requirements prescribed in the environmental authorization shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Accumulation
of excess.

29. Any person who accumulates hazardous wastes in quantities that exceed the amount stipulated by the Agency in the environmental authorization is guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

General
provision as to
penalties.

30. Unless otherwise provided, any person who contravenes any of the provisions of these Regulations shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars:

Provided that where the offender, liable to a prescribed fine under any of these Regulations is a body corporate, the body corporate shall be liable to a fine of not less than twice

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

such prescribed maximum fine, and, where the offender liable to a prescribed term of imprisonment under any of these Regulations is a body corporate, the body corporate shall be liable to twice such term of imprisonment.

PART VI ENFORCEMENT

Return to
owner.

31. Any hazardous waste in respect of which there is a conviction for an offence against these Regulations shall be returned to its owner.

Declaration of
hazardous
waste disposal
site.

32. (1) The Minister may declare any area or part of an area to be a hazardous waste disposal site and may alter or revoke any such declaration.

(2) No person shall deposit or cause to be deposited, any hazardous waste in any place except at a declared hazardous waste disposal site.

PART VII GENERAL PROVISIONS

Register of
Hazardous
Wastes

33. (1) The Agency shall establish and maintain a Register of Hazardous Wastes.

(2) The Register shall contain information identifying hazardous and acutely hazardous wastes that may be regulated;

(3) The Agency shall cause the Register to be updated periodically and published from time to time in the *Gazette* and in one or more daily newspapers, having wide circulation in Guyana.

Spill or

34. In the event of the occurrence of any spill or

LAWS OF GUYANA

132 **Cap. 20:05**

Environmental Protection

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

accidental damage. accidental discharge of any effluent mentioned in the Register of Hazardous Wastes mentioned in regulation 33 which either directly or indirectly gains or may gain access onto any inland or coastal waters or any land, the person or persons responsible for such occurrence shall immediately notify the Agency of the occurrence.

Savings of laws. **35.** These Regulations shall be read and construed as being in addition to, and not in derogation of any provisions of –

Cap. 82:01. (a) the Customs Act;

Cap. 68:08 (b) the Pesticides and Toxic Chemicals Act;

(c) any other law.

Regulations do not apply. **36.** The following hazardous wastes shall not be subject to the requirements of these Regulations –

(a) hauled sewage,

(b) waste from the operation of sewage works where such works are owned by a municipality wastes collected from households or residues arising from the incineration of household wastes;

(c) household waste including household hazardous waste;

(d) incinerator ash resulting from the incineration of waste that is neither hazardous waste or liquid industrial waste,

- (e) waste that is a hazardous industrial waste, hazardous waste chemical, flammable waste, corrosive waste, leachate toxic waste or reactive waste that is generated in an amount that is less than five kilograms or otherwise accumulated in an amount less than five kilograms,
- (f) waste that is an acute hazardous chemical and that is generated in any month in an amount that is less than one kilogram or otherwise accumulated in an amount that is less than one kilogram,
- (g) wastes that are generated in raw material, product storage or manufacturing and such waste is kept in the tank, pipeline or vessel;
- (h) an empty container or the liner from an empty container that contained hazardous industrial waste, hazardous waste chemical, flammable waste, corrosive waste, leachate toxic waste or reactive waste,
- (i) the residues or contaminated materials from the clean-up of a spill of less than five kilograms of waste that is a hazardous industrial waste, hazardous waste chemical, flammable waste, corrosive waste, leachate waste or reactive waste, or
- (j) the residues or contaminated

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

materials from the clean-up of a spill of less than one kilogram of waste that is an acute hazardous waste chemical,

- (k) agricultural wastes including agricultural return flows and pesticide residues,
- (l) used tyres that have been refurbished for road use,
- (m) used oil,
- (n) radioactive substances,
- (o) point source discharges,
- (p) residues from recycling processes,
- (q) recovered oil,
- (r) oil, gas, mining and mineral processing wastes,
- (s) used oil filters,
- (t) hazardous waste generated in raw material, product storage, and process unit waste, or
- (u) wastes that occur from the normal material handling operations

Amendment of
Schedules.

37. (1) The Minister acting on advice of the Agency, may make amendments to the Schedules to these Regulations.

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

(2) Where Schedules are amended under paragraph (1), the Agency shall cause a copy of that amended Schedule to be published in a daily newspaper having wide circulation in Guyana in Guyana.

Guidelines for storage, disposal, etc.

38. The Agency may establish such guidelines for the proper disposal, treatment, storage or any other activity related to the handling of hazardous wastes.

Closure guidelines.

39. (1) The Agency shall develop guidelines for the closure of hazardous waste facilities or sites where accumulation of hazardous waste is discontinued.

(2) The guidelines shall establish procedures, inter alia, for –

- (a) decontamination of equipment and soil;
- (b) prevention of post-escape hazardous waste; and
- (c) maintenance of the site.

Reg. 2(e) and (f)

SCHEDULE I

LIST OF HAZARDOUS WASTE TO BE CONTROLLED

Waste Streams

1. Clinical Waste from medical care in hospital, medical centers and clinics.
2. Wastes from the production and preparation of pharmaceutical products.
3. Waste from the production, formulation and use of

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

biocides and phytopharmaceuticals.

4. Waste pharmaceuticals, drugs and medicines.
5. Waste from manufacture, formulation and use of wood preserving chemicals.

Waste having as constituents.

Metal carbonyls

Beryllium, beryllium compounds

Hexavalent chromium compounds

Copper compounds

Zinc compounds

Arsenic, arsenic compounds

Selenium, selenium compounds

Cadmium, cadmium compounds

Antimony, antimony compounds

Tellurium, tellurium compounds

Mercury, mercury compounds

Thallium, thallium compounds

Lead, lead compounds

Inorganic fluoride compounds excluding calcium fluoride

Inorganic cyanides

Acidic solutions or acids in solid form

Basic solution or bases in solid form

Asbestos (dust and fibres)\Organic phosphorous compounds

Organic cyanides

Phenols, phenol compounds including chlorophenols

Ethers

Halogenated organic solvents

Halogenated organic solvents

Any congener or polychlorinated bibenzo-furan

Any congener of polychlorinated dibenzo-p-dioxin

Organohalogen compounds other than substances referred to in this schedule

SCHEDULE II**LIST OF HARARDOUS CHARACTERISTICS**

1. Explosives.
2. Flammable liquids.
3. Flammable solids and waste solids other than explosive which may be readily combustible.
4. Oxydising substances.
5. Organic peroxides.
6. Poisonous substances.
7. Infectious substance.
8. Corrosives.
9. Toxic gases.
10. Toxic substance which if inhaled or ingested may cause delay or chronic effects.
11. Ecotoxic substances which if released may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon systems.
12. Materials capable, after disposal, of yielding another material which possesses any of the characteristics specified in items 1 – 11 of this schedule.

NOTICE OF ACTIVITY**EPA Identification No....**

1. Name, address, telephone number and facsimile number of the applicant
2. Generators of the waste and site of generation
3. Disposer of the waste and size of disposal
4. Designation and physical description of the waste and its composition and info handling

[Subsidiary] *Environmental Protection (Hazardous Waste Management) Regulations*

requirements including emergency provisions
in case of accidents...

5. Types of packaging envisaged (e.g. bulk, drummed, etc) for storage, accumulation etc.
 6. Estimated quantity weight and volume
 7. Process by which waste is generated
 8. Method of treatment, disposal
 9. Information concerning the contract between the transporter, disposer as the case may be
 10. Information relating to insurance
-

Reg. 8/2008

ENVIRONMENTAL PROTECTION (NOISE MANAGEMENT) REGULATIONS

made under section 68

ARRANGMENT OF REGULATIONS

PART I PRELIMINARY

REGULATION

1. Citation.
2. Interpretation.

[Subsidiary]

Environmental Protection (Noise Management) Regulations

REGULATION

PART II

POWER TO ISSUE ENVIRONMENTAL AUTHORISATION

3. General requirement to apply for an authorisation.
4. Permissible noise levels.
5. Point of emission.
6. Application for variance.
7. Making changes that alter decibel levels.
8. Prohibition against new and altered sources of noise emission.
9. Requirement and approval of plans

PART III

RESTRICTIONS ON CONSTRUCTION ACTIVITIES

10. Restriction on construction activities.
11. Power to waive restriction.

PART IV

PARKS

12. Noise control in park.

PART V

OPERATION OF LOUDSPEAKERS AND SOUND-MAKING DEVICES

13. Offence to cause loud, etc. noise in building or premises.
14. Restriction on the operation of sound-making device in a public place.
15. Application for consent to operate a sound-making device in a public place.
16. Operation of a loudspeaker permissible in certain cases without consent.

LAWS OF GUYANA

140 **Cap. 20:05** *Environmental Protection Agency*

[Subsidiary] *Environmental Protection (Noise Management) Regulations*

REGULATION

PART VI
OFFENCES AND PENALTIES

17. Offence in respect of nightclub, etc.
18. Penalties.
19. Soundproofing.
20. Person disturbed may complain.
21. Efforts to prevent or counteract noise caused in the course of construction, etc.
22. Fees.

SCHEDULE - Categories in respect of which permissible noise levels are to be fixed.

PART I
PRELIMINARY

Citation. 1. These Regulations may be cited as the Environmental Protection (Noise Management) Regulations.

Interpretation. 2. (1) In these Regulations—

“commercial activity” includes public events, fairs and concerts;

“decibel” means a unit, which describes the sound pressure level or intensity of sound;

“facility” includes—

- (a) any office, room or building, and any place, spot or land, whether open or enclosed;

[Subsidiary]

Environmental Protection (Noise Management) Regulations

- (b) any aircraft, hovercraft, ship, boat, pleasure craft or other vessel whether afloat or not, and any vehicle;
- (c) any electrical installation, subterranean installation or installation on land including the foreshore and other land intermittently covered by water;
- (d) any offshore installation and any other installation, whether floating or resting on the seabed or the subsoil thereof or resting on other land covered with water or the subsoil thereof; and
- (e) any dam or other installation designed to hold liquid or store it on a long-term basis;

“industrial” means of, or pertaining to the manufacture, processing, handling, transport, importation, storage or disposal of materials (including the extraction and conversion of mineral resources, raw materials, materials in the process of manufacture, manufactured materials, by products and any waste or waste materials whether hazardous or not);

“loudspeaker” includes a megaphone and any device for amplifying sound;

“noise” means unwanted sound which may cause or tend to cause an adverse psychological effect on human beings and includes vibration;

“noise disturbance” means any unwanted sound including vibration that annoys, disturbs, or perturbs normal persons with reasonable sensitivities; or any unwanted sound which reasonably may be perceived to injure or endanger the comfort, repose, health, peace or safety of any humans or animals, or endangers or injures movable or immovable property;

“perishable commodity” includes fruits, vegetables, meats, fish and chicken;

“public event” includes open-air concerts, bazaars and such other events at which a sound-making device is used;

“public place” includes any street, road, public way, market place, park, car park, square, bridge, alley, plaza, passage, beach, waterfront, seaway, building, place or conveyance to which the public is entitled to have access whether upon payment or otherwise;

“sound-making device” means any mechanism that is intended to, or which actually produces noise when operated or handled and includes any musical instrument, radio, phonograph, television receiver, musical keyboard, wind instrument, string instrument, percussion instrument, steel pans, or any article or thing adapted for use in making musical sound, playing of a band, orchestra or any device to amplify sound or the music of any band, orchestra, musician or group of musicians, receiver, or any reproducing device or equipment and includes a loudspeaker;

“tools and equipment” includes pile drivers, steam shovels, pneumatic hammers, pumps, vent or valve devices or any other similar equipment.

[Subsidiary]

Environmental Protection (Noise Management) Regulations

(2) Where more than one person is responsible for noise, these Regulations shall apply to each of those persons whether or not the act or omission for which any one of them is responsible would by itself result in a level of noise justifying action under these Regulations.

PART II
POWER TO ISSUE ENVIRONMENTAL
AUTHORISATION

General
requirement to
apply for an
authorisation.

3. (1) Subject to paragraph (3), a person who, on the commencement of these Regulations, emits any noise in the construction, installation, operation, modification or extension of any facility relating to—

- (a) industry;
- (b) commerce;
- (c) transport;
- (d) construction; or
- (e) any institution,

shall apply to the Agency for an environmental authorisation in accordance with the provisions of regulation 18 of the Environmental Protection (Authorisations) Regulations.

(2) A person proposing to engage in any of the activities mentioned in paragraph (1) shall submit an application to the Agency, before the date on which the emission is due to commence.

(3) The Agency may at any time after the

commencement of these Regulations, direct a person who engages in any of the activities specified in paragraph (1) to submit an application to the Agency for an environmental authorisation.

(4) An application for an environmental authorisation shall be in accordance with the procedures prescribed in regulation 18 of the Environmental (Authorisations) Regulations.

(5) Paragraph (1) shall not apply to—

- (a) households that do not contain industrial or commercial facilities;
- (b) airplanes, trains and temporarily-placed building machinery; or
- (c) construction of individual homes.

(6) Any person who contravenes this regulation shall be guilty of an offence and shall be liable, on summary conviction to a fine of not less than seventy thousand dollars nor more than three hundred thousand dollars and imprisonment for three months.

Permissible
noise levels.
Schedule.

4. (1) The Agency may at any time after the commencement of these Regulations, fix the Schedule.

(2) No new stationary source or facility shall emit any noise that is greater than those established as a permissible noise level under paragraph (1).

(3) Every existing stationary source or facility shall, within two years of the commencement of these

[Subsidiary]

Environmental Protection (Noise Management) Regulations

Regulations comply with the permissible noise" level according to the category established under paragraph (1).

(4) The Agency may amend the permissible noise level established under paragraph (1), with respect to any or all of the categories not listed anywhere in these Regulations.

(5) The Agency may in respect of any stationary source or facility waive the applicability of any permissible noise level or of any category mentioned in the Schedule.

(6) Any person or entity who contravenes paragraphs (2) or (3) shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Point of
emission.

5. (1) The point or source for the emission of noise from any facility shall be determined by the Agency.

(2) Wherever the noise emitted or is likely to be emitted is mentioned in these Regulations, the reference, unless the context otherwise requires, is at the point of emission determined in paragraph (1).

Application for
variance.

6. A person granted with an environmental authorisation may make an application to the Agency to vary any provision thereof in accordance with the provisions of the Environmental Protection (Authorisations) Regulations on submission of supporting particulars together with the appropriate fee.

Making
changes that
alter decibel
levels.

7. A holder of an environmental authorisation shall not make any change to the conduct of any activity in the manner of running, using, maintaining or operating or in any operation or process carried on in the facility, which

causes change, or is intended or is likely to cause, a material increase in the decibel level of noise, without first obtaining an approval for a variance from the Agency

Prohibition against new and altered sources of noise emission.

8. (1) No person after obtaining a variance in relation to his environmental authorisation under regulation 6 or 7 shall—

- (a) carry out any work on facilities that may result in a new source of noise emission or cause a material change in the quantity or quality of the noise emitted from an existing source; or
- (b) construct on any land or building designed to be used for a purpose that may cause the land or building to result in a new source of noise emission.

(2) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Requirement and approval of plans.

9. (1) An application to carry out any work that may result in a new source of emission or cause a material change in the quantity or quality of the noise emission from an existing source shall be submitted to the Agency and shall be accompanied by the fee prescribed in accordance with regulation 8 of the Environmental Protection (Authorisations) Regulations.

[Subsidiary]

Environmental Protection (Noise Management) Regulations

(2) The Agency may grant the application either subject to conditions or unconditionally and may require the applicant—

- (a) to repair, alter, replace or install such control or monitoring equipment and implement such environmental audit procedures;
- (b) to establish and maintain records regarding such sampling, monitoring, and environmental auditing activities;
- (c) to establish and maintain records regarding noise emission control equipment on the premises, including records on control equipment parameters, production variables and other indirect data when direct monitoring is not required;
- (d) to conduct a monitoring programme at his own expense or bear the cost of such programme within such period or at such time and in such manner as the Agency may specify;
- (e) to submit annual or other reports showing compliance with the stipulations of the environmental authorisation; or
- (f) to do such other things as the Agency may determine.

PART III
RESTRICTIONS ON CONSTRUCTION ACTIVITIES

Restriction on construction activities.

10. Construction activities, other than public works, that involve the operation of tools and equipment may be prohibited on the complaint of a neighbour, even when permissible noise levels fixed under these Regulations are not exceeded—

- (a) between the hours of 11.00 p.m. and 6.00 a.m. from Monday to Saturday.
- (b) before 6.00 a.m. and after 6.00 p.m. on Sundays.

Power to waive restriction.

11. Regulation 10 does not apply to the operation of tools and equipment—

- (a) in cases of emergency;
- (b) for emergency work by a public utility service agency in the exercise of any of its functions;
- (c) where such operation or use is required to eliminate or reduce any dangerous or hazardous condition, which endangers life or property.

PART IV
PARKS

Noise control

12. (1) No person shall operate a loudspeaker,

[Subsidiary]

Environmental Protection (Noise Management) Regulations

in park.
[23 of 1977]

sound-making device or equipment in a park, as defined under the National Parks Commission Act, 1977 without the written permission of the National Parks Commission.

(2) Any person who contravenes paragraph (1) commits an offence and shall be liable on summary conviction to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars.

PART V OPERATION OF LOUDSPEAKERS AND SOUND- MAKING DEVICE

Offence to
cause loud, etc.
noise in
buildings or
premises.

13. Any person who is the proprietor, occupier or person having charge of any building, private premises or any part thereof or any vehicle, at any time causes or suffers or allows any loud, unnecessary, excessive or unusual noises in the operation of any sound-making device or equipment so that the noise or music is plainly audible at a distance of fifty feet from the vehicle or premises in which or from which it is produced commits an offence and shall be liable on summary conviction to a fine of not less than three hundred thousand dollars nor more than seven hundred and fifty thousand dollars and to imprisonment for one year.

Restriction on
the operation of
sound-making
device in a
public place.

14. (1) Subject to the provisions of these Regulations or any other written law, no person shall operate or cause the operation of any sound-making device or equipment whilst being the owner of or, having custody of such sound-making device or equipment or permit the operation of such device or equipment in a public place—

(a) between the hours of 11 p.m. and 7 a.m. on any day;

(b) at any time, except with the prior

written permission of the Agency obtained in accordance with regulation 15, for the purpose of hosting a public event or advertising any entertainment, trade or business.

(2) Any person who contravenes paragraph (1) commits an offence and is liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Application for consent to operate a sound-making device in a public place.

15. (1) Any person who wishes to operate a sound-making device or cause the operation of a sound-making device or equipment for the purposes and during the hours mentioned in regulation 14(1) shall make a written application to the Agency not later than ten clear days before the date on which it is proposed to operate or cause the operation of the sound-making device or equipment.

(2) If the Agency considers that the application contains sufficient information for the purpose and no nuisance would be occasioned by the operation of the sound-making device or equipment it may give written consent to the application and may attach such conditions and restrictions thereto as may appear reasonable in all the circumstances.

(3) Where an application is made under paragraph (1) the Agency shall, within seventy-two hours of the receipt of the application, inform the applicant of the outcome of the application stating whether or not it approves the application.

(4) Where the Agency refuses to approve an application under paragraph (1) it shall communicate the reasons for its refusal in writing to the applicant.

[Subsidiary]

Environmental Protection (Noise Management) Regulations

(5) An applicant who is aggrieved by the decision of the Agency may appeal within thirty days of the receipt of the refusal by the Agency to the Environmental Appeals Tribunal.

Operation of a loudspeaker permissible in certain cases without consent.

16. Regulation 15 does not apply to a loudspeaker or other similar equipment—

- (a) for police, fire and rescue and ambulance purposes;
- (b) by a statutory authority in the exercise of any of its functions;
- (c) for communicating with persons on a vessel for the purpose of directing the movement of that vessel;
- (d) if the loudspeaker or other similar equipment—
 - (i) is in or affixed to a vehicle, and operated solely for the purpose of or for communicating with the driver or passenger of the vehicle; and
 - (ii) is so operated as not to cause a noise disturbance to persons in the area in which the loudspeaker is being operated;
 - (iii) by persons employed in connection with the transportation of passengers by road, by air or by sea where the loudspeaker is operated

- solely for making announcements to passengers;
- (vi) during the national festival celebrations; and
- (v) in cases of emergency.

**PART VI
OFFENCES AND PENALTIES**

Offence in respect of nightclub, etc.

17. Any person who—

- (a) operates a nightclub or similar premises contrary to the requirements of regulation 20; or
- (b) at any time within the period of seven days following a directive from the Agency or at any time, causes or permits the operation of a sound-making device, equipment, plant or machinery in a manner which would cause a noise disturbance, commits an offence and shall be liable on summary conviction to a fine of not less than three hundred thousand dollars nor more than seven hundred and fifty thousand dollars and to imprisonment for one year.

Penalties.

18. Any person found guilty of an offence for which a penalty is not otherwise prescribed under these Regulations shall be liable on summary conviction to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars.

[Subsidiary]

Environmental Protection (Noise Management) Regulations

Soundproofing.

19. A person who is the proprietor, occupier or having control of a nightclub or similar premises in which a sound-making device is used beyond midnight, shall ensure that, within one year after the commencement of these Regulations, the building or the part of the building in which such device is used is sufficiently soundproofed to prevent sound or noise, within a distance of fifty feet, from emanating from the said premises causing a noise disturbance to other persons.

Person
disturbed may
complain.

20. Any person who is disturbed by noise emitted from sound-making device, equipment, plant or machinery on or in any property may make a written or oral complaint to the Agency.

Efforts to
prevent or
counteract
noise in the
course of
construction,
etc.

21. (1) In proceedings for an offence in respect of noise caused in the conduct of transportation, construction or industrial activities, it shall be a defence to prove that the best practicable means had been used for preventing or counteracting the effect of the noise.

(2) For the avoidance of doubt "best practicable means" in paragraph (1) means.

- (a) reasonably practicable having regard, among other things, to the conditions and circumstances in Guyana, to the current state of technical knowledge and to the financial implication; or
- (b) having regard to any relevant code of practice governing the trade or business.

(3) The test of best practicable means is to apply

LAWS OF GUYANA

154

Cap. 20:05

Environmental Protection Agency

[Subsidiary]

Environmental Protection (Noise Management) Regulations

only in so far as compatible with safety and safe working conditions and the exigencies of any emergency or unforeseeable circumstances.

Fees.

22. (1) The fees to be charged for an application for an authorisation and for the written permission of the Agency under these Regulations shall be in accordance with the provisions of regulation 8 of the Environmental Protection (Authorisations) Regulations.

—————

Reg. 4(1)

SCHEDULE

**ENVIRONMENTAL (NOISE MANAGEMENT)
REGULATIONS**

**CATEGORIES IN RESPECT OF WHICH PERMISSIBLE
NOISE LEVELS ARE TO BE FIXED**

Residential
Institutional
Educational
Industrial
Commercial
Construction
Transportation

—————

Reg. 9/2000

**ENVIRONMENTAL PROTECTION (AIR
QUALITY) REGULATIONS**

made under section 68(1)

ARRANGEMENT OF REGULATIONS

REGULATION

**PART 1
PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II
POWER TO ISSUE ENVIRONMENTAL AUTHORISATION**

3. Registration.
4. General requirement to apply for an authorisation.
5. Restrictions on air contaminants.
6. Change in operating conditions.
7. Application for variance.

**PART III
PARAMETER LIMITS AND CONTROL OF AIR CONTAMINANTS**

8. Parameter limits for stationary sources.
9. Agency may waive applicability.
10. National ambient air quality standards.
11. Measuring instruments.
12. Control of air emissions.
13. Offence to burn.
14. Management of air contaminants.

LAWS OF GUYANA

156

Cap. 20:05

Environmental Protection Agency

[Subsidiary]

Environmental Protection (Air Quality) Regulations

REGULATION

PART IV

FEES

15. Fees payable for registration etc.

PART V

NEW SOURCES OF AIR EMISSIONS

16. Prohibition against new and altered sources of emissions.

17. Requirement and approval of plans.

PART VI

MOBILE SOURCE EMISSIONS CONTROL

18. Restrictions on sale of new and used imported vehicles.

19. Emissions from vehicles generally.

20. Coordination.

PART VII

OFFENCES AND PENALTIES

21. Prohibition against construction etc.

22. Offence to store.

23. Offence and penalty.

PART VIII

GENERAL PROVISIONS

24. Air Pollution Monitoring Index.

FIRST SCHEDULE – List of Contaminants the Parameter Limits of which are to be specified.

SECOND SCHEDULE – Standard Methods of Analysis of Emissions.

[Subsidiary]

Environmental Protection (Air Quality) Regulations

Citation. 1. These Regulations may be cited as the Environmental Protection (Air Quality) Regulations 2000.

Interpretation. 2. In these Regulations, unless the context otherwise requires –

“activity” means any of the activities mentioned in regulation 4(1);

“ambient air quality standards” means those limits that define the allowable concentration of a particular contaminant in a given area;

“air pollution episode” means an occasion when air contamination is at such a level and for such period of time that the air contamination may pose a danger to human health;

“air pollution index” means a series of numbers expressing the relative levels of air pollution and taking into consideration one or more air contaminants;

“applicant” means a person who applies for an environmental authorisation for the purposes of these Regulations and includes a person appointed under a duly registered power of attorney;

“application” means an application for an environmental authorisation made in accordance with these Regulations;

“commerce” means of or pertaining to business, trade or manufacture;

“compliance schedule” means a schedule of measures including a sequence of interim requirements that leads to compliance with these Regulations;

“emission” means air contaminant;

“equipment” includes apparatus, device, mechanism or structure;

“existing industries” means any industry pertaining to the manufacture, processing, handling, transport, storage or disposal of materials (including raw materials, materials in the process of manufacture, manufactured materials, by-products and waste materials) that entered into operation before the commencement of these Regulations;

“facility” includes –

- (a) any office, room or building, and any place, spot or land, whether open or enclosed;
- (b) any aircraft, hovercraft, ship, boat, pleasure craft or other vessel whether afloat or not, and any vehicle;
- (c) any electrical installation, subterranean installation or installation on land including the foreshore and other land intermittently covered by water;
- (d) any offshore installation and any other installation, whether floating or resting on the seabed or the subsoil thereof or resting on other land

[Subsidiary]

Environmental Protection (Air Quality) Regulations

covered with water or the subsoil thereof; and

- (e) any dam or other installation designed to hold liquid or store it on a long-term basis;

“fuel- burning equipment” includes equipment designed to burn fuel but does not include an internal combustion engine;

“incinerator” includes equipment used for the burning of waste;

“industry” includes premises wholly or mainly used (whether for profit or not) for agricultural purposes or for scientific research or experiment which may entail an air pollutant being emitted into the atmosphere;

“installation” means the aggregate of all electrical generating plants owned and managed at any one site and includes the developed property, waste disposal sites, waste water treatment facilities or other facilities associated with it;

“mobile sources” means any source of air pollution other than stationary sources, including but not limited to motor vehicles, off-road vehicles, marine vessels and aircraft;

“new” in relation to a motor vehicle, means a motor vehicle that has not been previously used;

“opacity” means,

- (a) colour of a visible emission in shades of grey to black, or
- (b) degree to which a visible emission

obstructs the passage of light;

“point of emission” means the point at which a contaminant enters the natural environment;

“visible emission” means any contaminant which can be detected by the naked eye;

“source” means any public, institutional, commercial or industrial structure, installation, plant, building or facility, that emits or has the potential to emit any regulated air pollutant from any process;

“stationary source” means any source of air pollution that is produced by a fixed or stationary location, including but not limited to electrical installations.

PART II
POWER TO ISSUE ENVIRONMENTAL
AUTHORISATION

Registration. 3. Subject to regulation 5(2), any person who emits air contaminants shall register with the Agency.

General requirement to apply for an authorisation. 4. (1) Subject to paragraph (3), a person who, at the commencement of these Regulations, emits any air contaminant in the construction, installation, operation, modification or extension of any facility relating to –

- (a) industry;
- (b) commerce;
- (c) agriculture; or
- (d) any institution,

[Subsidiary]

Environmental Protection (Air Quality) Regulations

shall apply to the Agency for an environmental authorisation within one year of the commencement of these Regulations or such later time as the Agency may determine.

(2) Any person proposing to engage in any of the activities mentioned in paragraph (1) shall submit an application to the Agency at least ninety days before the date on which the emission is due to commence.

(3) The Agency may at any time request a person who engages in any of the activities specified in paragraph (1) to submit an application to the Agency for an environmental authorisation.

(4) An application for an environmental authorisation shall be in accordance with the procedures set out in regulation 18 of the Environmental (Authorisations) Regulations.

(5) Any person who contravenes this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Restrictions on
air
contaminants.

5. (1) No person who engages in any of the activities specified in regulation 4(1) shall emit or cause or permit the emission of any air contaminant into the atmosphere unless that person holds an environmental authorisation.

(2) Paragraph (1) shall not apply to stationary sources that are households that do not contain industrial or commercial facilities.

Change in
operating
conditions.

6. (1) Where at any stationary source a failure to operate in the normal manner or a change in operating conditions occurs, or a shut-down of the source or part

thereof is made for some purpose, resulting in the emission of air contaminants that may result in quantities or concentrations in excess of those allowed in regulation 8, the owner or operator of the source of air contamination shall-

- (a) immediately notify the Agency and furnish it with particulars of such failure, change or shut-down; and
- (b) furnish the Agency with the particulars in writing, as soon as is practicable, of such failure, change or shutdown.

(2) If the Agency considers it advisable, it may authorise, in writing, the continuance of such operation for such period of time as it considers reasonable in the circumstances and may impose upon the owner or operator such terms and conditions for such continued operation as it considers necessary in the circumstances.

Application for variance.

7. A person granted with an environmental authorisation may make an application to the Agency to vary any provision thereof on submission of supporting particulars in accordance with the provisions of regulation 21 of the Environmental Protection (Authorisations) Regulations.

**PART III
PARAMETER LIMITS AND CONTROL OF
CONTAMINANTS**

Parameter limits for stationary sources. First Schedule

8. (1) The Agency shall, at any time after the commencement of these Regulations, establish the parameter limits with respect to any of the contaminants specified in the First Schedule.

(2) No new stationary source or facility shall emit

[Subsidiary]

Environmental Protection (Air Quality) Regulations

any contaminant in concentrations greater than those established as parameter limits under paragraph (1).

(3) The Agency shall, on a case-by-case basis fix, in accordance with compliance schedule the date and the manner in which every existing stationary source shall comply with the parameter limits for each contaminant established under paragraph (1).

(4) The Agency in imposing conditions on an environmental authorization for an existing stationary source shall be guided by the parameter limits established under paragraph (1).

(5) The Agency may amend the parameter limits established under paragraph (1), with respect to any of the contaminants.

(6) Any person who contravenes paragraphs (2) or (3) shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Agency may waive applicability.

9. Notwithstanding the provisions of Regulation 8, the Agency may in respect of any stationary source waive the applicability of any parameter limit or of any contaminant mentioned in the First Schedule.

National ambient air quality standards.

10. (1) The Agency shall establish the desirable national ambient air quality standards.

(2) In exercising its powers under these Regulations, the Agency may take into account the national ambient air quality standards specified under paragraph (1).

(3) The Agency may vary the established national ambient air quality standards with respect to any parameter

LAWS OF GUYANA

164

Cap. 20:05

Environmental Protection Agency

[Subsidiary]

Environmental Protection (Air Quality) Regulations

limit or of any air contaminant.

Measuring instruments.

11. (1) The Agency may use measuring instruments for the purpose of assessing the air quality.

(2) Measuring instruments shall, for the purpose of these Regulations, include-

- (a) any apparatus for separating air impurity from the gas or liquid medium in which it is carried;
- (b) any device to indicate or record air pollution or give warning of excessive air pollution; and
- (c) any other device used for the purposes of measuring air pollution.

Control of air emissions.

12. (1) No person shall emit or cause to be emitted, the concentration of a contaminant at a point of emission exceeding those established as parameter limits under regulation 8.

(2) For the purposes of these Regulations, emissions shall be analysed in accordance with the latest edition of the methods specified in the Second Schedule or in accordance with such other methods of analysis as the agency thinks fit.

Second Schedule

Offence to burn.

13. (1) No person shall burn or permit to be burned in any fuel burning equipment or incinerator any fuel or waste except the fuel or waste for the burning of which the equipment or incinerator was designed.

(2) No person shall burn or permit to be burned in any fuel burning equipment or incinerator any fuel or waste

[Subsidiary]

Environmental Protection (Air Quality) Regulations

at a greater rate than the rate for which the equipment or incinerator was designed.

Management of
air
contaminants.

14. (1) Within six months after the commencement of these Regulations, every stationary source shall submit an inventory of the air contaminants that are produced in during its operations to the Agency.

(2) The Agency shall develop and implement a programme for the management of such contaminants which shall include the identification and registration of significant sources of air contaminants into the environment.

PART IV FEES

Fees payable
for registration
etc.

15. The fees to be charged for an application -

- (i) for registration;
- (ii) for variance;
- (iii) for written authorisation for changed conditions; and
- (iv) to carry out works in the construction or alteration of any building,

shall be those specified in regulation 9 of the Environmental Protection (Authorisations) Regulations.

PART V NEW SOURCES OF AIR EMISSIONS

Prohibition
against new
and altered
sources of

16. (1) No person obtaining a variance under regulation 7 from the Agency shall -

- (a) carry out any work on any premises

emissions.

that may result in a new source of air emission or cause a material change in the quantity or quality of the emission from an existing source;

- (b) construct on any land, building, erection or alteration designed or used for a purpose that may cause the land or building to result in a new source of air emission.

(2) Paragraph (1) shall not apply to –

- (a) routine maintenance carried out on any plant, structure, equipment, apparatus, mechanism or thing; or
- (b) any plant, structure, equipment, apparatus, mechanism or thing that may be a source of contaminant of a class exempted there from by these Regulations.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable, on summary conviction to a fine of not less than sixty thousand dollars nor more than one hundred and fifty thousand dollars.

Requirement
and approval
of plans.

17. (1) Where a person intends to undertake any activity within the meaning of regulation 16 he shall make application to the Agency therefor together with the fee prescribed in regulation 8 of the Environmental Protection (Authorisations) Regulations.

(2) The Agency may grant such application either subject to any condition that the Agency considers necessary and may require the applicant –

[Subsidiary]

Environmental Protection (Air Quality) Regulations

- (a) to repair, alter, replace or install emission control equipment;
- (b) to conduct a sampling and monitoring programme at the applicant's own expense or bear the cost of such programme within such period or at such time and in such manner as the Agency may specify; or
- (c) to do all other acts or things that the Agency considers necessary.

PART VI

MOBILE SOURCE EMISSIONS CONTROL

Restrictions on sale of new and used imported vehicles.

18. (1) Within three years after the commencement of these Regulations or such other time as the Agency may determine, no person shall make available for sale in Guyana any new or used imported vehicle unless such vehicle meets or betters the exhaust emission standards established by the Agency and is equipped with a fully functioning emissions control system or some other diagnostic technology for monitoring exhaust emissions.

c. 51:02

(2) The requirements of paragraph (1) are in addition to the requirements that may be imposed under the Motor Vehicles and Road Traffic Act and nothing in these Regulations relieves a person from the requirements of that Act.

(3) Any person who contravenes paragraph (1) shall be guilty of an offence and shall be liable, on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Emissions from vehicles generally. **19.** (1) Within three years after the commencement of these Regulations or such other time as the Agency may determine, the Agency shall establish exhaust emission standards and every motor vehicle shall comply with such standards.

(2) The provisions of paragraph (1) shall not apply to a motorcycle.

Coordination. **20.** For the purposes of regulations 18 and 19 the Agency shall coordinate with the Ministry responsible for issuing fitness certificates for motor vehicles.

**PART VII
OFFENCES AND PENALTIES**

Prohibition against construction etc. **21.** No person shall construct, alter, demolish, drill, blast, crush, sandblast or screen anything or cause or permit the construction, alteration, demolition, drilling, blasting, crushing, sandblasting or screening of anything so that a contaminant other than heat, sound, vibration or radiation greater than the ambient air quality standards is emitted into the air.

Offence to store. **22.** No person shall store, handle or transport any solid, liquid or gaseous material or substance in such manner that an air contaminant is released into the atmosphere.

Offence and penalty. **23.** Where a person commits an offence under these Regulations in respect of which a penalty is not prescribed, any person who commits such offence shall be liable, on summary conviction to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars.

[Subsidiary]

Environmental Protection (Air Quality) Regulations

PART VIII
GENERAL PROVISIONS

Air Pollution
Monitoring
Index.

24. (1) The Agency may as soon as practicable after the commencement of these Regulations cause to be prepared from time to time an index to be known as the Air Pollution Monitoring Index for any area in Guyana.

(2) Where the Air Pollution Monitoring Index for any area indicates increasing air pollution that may lead to an air pollution episode, the Agency, in consultation with the Ministry responsible for health, may order curtailment of the operation of sources of air pollution in the manner mentioned in paragraphs (3) and (4).

(3) Where the Air Pollution Monitoring Index reaches the number in excess of the designated Air Advisory Level, and meteorological forecasts indicate a six-hour prolongation of atmospheric conditions conducive to sustained or increased air pollution levels, the Agency may require owners or operators of sources of air pollution to make preparation for the curtailment of such operations as may be specified by the Agency.

(4) Where the Air Pollution Index reaches the number designated as the First Air Pollution Alert, and meteorological forecasts indicate a six-hour prolongation of atmospheric conditions conducive to sustained or increased air pollution levels, the Agency may require owners or operators of sources of air pollution to curtail such operations as are specified by the Agency.

(5) Any person who contravenes paragraphs (3) or (4) shall be guilty of an offence and shall be liable, on summary conviction to a fine of not less than seventy thousand dollars nor more than three hundred thousand dollars and to imprisonment for three months.

LAWS OF GUYANA

170

Cap. 20:05

Environmental Protection Agency

[Subsidiary]

Environmental Protection (Air Quality) Regulations

Reg. 8

FIRST SCHEDULE

**LIST OF CONTAMINANTS THE PARAMETER LIMITS OF WHICH
ARE TO BE SPECIFIED**

(i)	Smoke
(ii)	Solid particles
(iii)	Sulphuric acid mist or sulphuric trioxide
(iv)	Fluoride compounds
(v)	Hydrogen chloride
(vi)	Chlorine
(vii)	Hydrogen sulphide
(viii)	Nitric acid or oxides of nitrogen
(ix)	Carbon monoxide

Reg. 12

SECOND SCHEDULE

STANDARD METHODS OF ANALYSIS OF EMISSIONS

British Standard Ringelmann Chart (BS 2742C): 1969

Reg. 10/2000

**ENVIRONMENTAL PROTECTION
(AUTHORISATIONS) REGULATIONS**

made under section 68(1)

ARRANGEMENT OF REGULATIONS

REGULATIONS

**PART I
PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II
GENERAL**

3. Environmental Impact Assessment.
4. Register.
5. Records and information.
6. Reports on changes.
7. Reports to the Agency.
8. Fees.
9. Changes in particulars.
10. Incomplete applications.
11. Changes in status of holder of environmental authorisation.
12. Conditions of environmental authorisation.
13. Grounds for refusal to grant environmental authorisation.
14. Cancellation, suspension and modification of environmental authorisation.
15. Monitoring of environmental authorisation by Agency.
16. Appeals.

REGULATIONS

PART III

POWER TO GRANT ENVIRONMENTAL AUTHORISATION

17. Requirement to apply for authorisation.
18. Power to grant an environmental authorisation.
19. Duration of environmental authorisation.
20. Application for variance.
21. Transfer of environmental authorisation.
22. Renewal of environmental authorisation.

SCHEDULE

Citation.

1. These Regulations may be cited as the Environmental Protection (Authorisations) Regulations.

Interpretation.

2. In these Regulations –

“applicant” means a person who applies for an environmental authorisation for the purposes of these Regulations and includes a person appointed under a duly registered power of attorney;

“application” means an application for an environmental authorisation made in accordance with regulation 17;

“discharge” means the release of any liquid, solid or gaseous substance or a combination of them into the environment resulting directly or indirectly from human activities that may cause an adverse effect;

“trade discharge” includes any discharge from premises used for carrying on any trade or industry; and for the purposes of this definition premises wholly or mainly

[Subsidiary]

Environmental Protection (Authorisations) Regulations

used (whether for profit or not) for agricultural purposes or for scientific research or experiment shall be deemed to be premises used for carrying on a trade or industry;

“existing facility” means any industry pertaining to the manufacture, processing, handling, transport, storage or disposal of materials (including raw materials, materials in the process of manufacture, by-products and waste materials) that entered into operation before the commencement of these Regulations;

“facility” includes –

- (a) any office, room or building, and any place, spot or land, whether open or enclosed;
- (b) any aircraft, hovercraft, ship, boat, pleasure craft or other vessel whether afloat or not, and any vehicle;
- (c) any electrical installation, subterranean installation or installation on land including the foreshore and other land intermittently covered by water;
- (d) any offshore installation and any other installation, whether floating or resting on the seabed or the subsoil thereof or resting on other land covered with water or the subsoil thereof;
- (e) any dam or other installation designed to hold liquid or store it on a long-term basis;

“holder” means a person or corporate entity.

**PART II
GENERAL**

Environmental Impact Assessment. 3. The Agency may, upon the evaluation of an application for an environmental authorisation require the applicant to furnish any document, information or environmental impact assessment pursuant to section 11 of the Act.

Register. 4. (1) A Register made pursuant to section 36 of the Act, shall be maintained in any form and shall contain the following particulars –

- (a) every refusal to grant an environmental authorisation together with the reasons for the refusal;
- (b) every refusal to vary the conditions of an environmental authorisation;
- (c) information supplied under regulation 5; and
- (d) any other information the Agency considers expedient to be included in the Register.

(2) Every Register to which paragraph (1) refers shall be open to the public for inspection at the Agency’s principal office during normal working hours, free of charge, and the Agency shall supply a copy on payment of ten dollars for each page made from such Register.

Records and 5. (1) Every holder of an environmental authorisation

[Subsidiary]

Environmental Protection (Authorisations) Regulations

information. shall make all records required by these Regulations as soon as reasonably practicable and shall keep such records including records of any environmental monitoring for a period of not less than three years.

(2) A holder of an environmental authorisation shall keep records of all sampling and analytical procedures used in meeting the requirements of paragraph (1), including for each sample, the date and time of collection, the sampling procedures used and any incidents likely to affect the analytical results.

(3) A holder of an environmental authorisation shall keep records of all maintenance and calibration procedures and of all problems or malfunctions, including those related to sampling, analysis, acute lethality testing, chronic toxicity testing or flow measurement, that result or are likely to result in a failure to comply with the requirements contained in the environmental authorisation of these Regulations, stating the date, duration and cause of each malfunction including a description of any remedial action.

(4) A holder of an environmental authorisation shall ensure that all records kept under this regulation are available to authorised officers of the Agency at the holder's facility on request during normal office hours of the facility.

(5) A holder of an environmental authorisation shall keep records required by these Regulations, in an electronic and hard copy format acceptable to the Agency.

Reports on changes.

6. A holder of an environmental authorisation shall notify the Agency in writing of –

- (a) any change of name or ownership of the holder's facility within thirty days after the change occurs; or

- (b) any process change or redirection of or change in the character of an effluent stream that affects the quality of the discharge at any sampling point established under these Regulations at the holder's facility, within thirty days of the change or redirection.

Reports to the Agency.

7. (1) The holder of an environmental authorisation shall in each year lodge with the Agency, before the thirty-first day of March, an annual return containing information required by the Agency under the environmental authorisation.

(2) Any person responsible for an activity, which is the subject of any environmental authorisation, shall maintain and submit to the Agency records of the type, composition and quantity of contaminant released and the Agency shall maintain a Register therefor.

(3) Any person who fails to comply with paragraph (1) or (2) shall be guilty of an offence and shall be liable to a fine of not less than thirty thousand dollars nor more than eighty thousand dollars.

Fees.
[19 of 1998]

8. (1) Fees shall be charged as specified in the Schedule hereto with the permission of the competent authority under the Bank of Guyana Act 1998.

(2) Any fee paid in respect of applications referred to in the Schedule shall not be refundable.

Changes in particulars.

9. (1) The Agency may, while considering an application for an environmental authorisation, request additional oral or additional written information from –

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- (a) an applicant or an agent of the applicant or developer;
- (b) a person who is directly affected by the application;
- (c) a local authority or any other government agency; or
- (d) any other source which the Agency considers appropriate.

(2) Prior to the issue of an environmental authorisation, any change in the particulars furnished in the application or after the grant of the environmental authorisation, any change in the particulars on the basis of which an environmental authorisation has been granted shall be notified immediately in writing to the Agency by the applicant or his agent, or, as the case may be, by the developer or holder of such authorisation.

Incomplete applications.

10. (1) Where the Agency considers that the applicant has omitted to provide any of the information required under regulation 17, the Agency shall notify the applicant in writing of the omission within fifteen days of receipt of the application and shall request the applicant to furnish the requisite information within fifteen days.

(2) The Agency may at the request of the applicant allow an extension of the time limit fixed under paragraph (1).

(3) Without prejudice to the generality of regulation 18, where the applicant does not supply the information under paragraph (1) or (2), the Agency may refuse to grant an environmental authorisation.

Changes in

11. Where a holder of an environmental authorisation

LAWS OF GUYANA

178

Cap. 20:05

Environmental Protection Agency

[Subsidiary]

Environmental Protection (Authorisations) Regulations

status of holder –
of
environmental
authorisation.

- (a) dies;
- (b) becomes bankrupt;
- (c) goes into liquidation or receivership;
or
- (d) becomes a party to an amalgamation,

the holder of the environmental authorisation, the holder's legal heirs or legal representative, shall within twenty-one days of the occurrence, give the Agency notice in writing thereof.

Conditions of
environmental
authorisation.

12. (1) The Agency shall establish in each environmental authorisation such terms and conditions, as required on a case-by-case basis, which may include the following-

- (a) that the holder of the environmental authorisation shall take all reasonable steps to-
 - (i) avoid all adverse environmental impacts which could result from the activity;
 - (ii) minimize the adverse environmental impact where the avoidance is impractical;
 - (iii) mitigate the impact where the impact cannot be avoided;
 - (iv) avoid cross media transference;
and
 - (v) compensate for impacts.

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- (b) that the records of monitoring information indicate –
- (i) the date, exact place and time of measurements;
 - (ii) the names of individuals who performed the measurements;
 - (iii) the date the measurements were compiled or analysed;
 - (iv) the names of individuals who compiled the information;
 - (v) the techniques or methods supporting the information such as observations, readings, calculations and bench data used and the results of such techniques or methods; and
 - (vi) the state of the operation of the facility including, but not limited to, planned and unplanned shutdowns, production levels and achievement of design capacity;
- (c) that the holder of the environmental authorisation shall at all times properly operate and maintain all facilities and systems of treatment and control which are installed and used by the holder of the authorisation including best management practices, pollution and prevention measures, adequate laboratory controls and the appropriate quality assurance procedures and back-up or auxiliary facilities to achieve compliance with the environmental authorisation;

- (d) that the holder of the environmental authorisation shall establish an environmental monitoring programme at the holder's own expense or bear the cost of such programme within such period or at such time and in such manner as the Agency may specify to make provision for –
- (i) a process description which contains a clear presentation of existing or planned engineering processes, a site map indicating all planned sources of emissions or discharges as well as analysis of environmental receptors such as surface water, wells and boreholes, residential and commercial areas and protected areas;
 - (ii) inventory of planned releases that identifies the sources of release and release points, substances released and the timing of releases;
 - (iii) methods of sampling;
 - (iv) methods of analysis;
 - (v) reporting procedures;
 - (vi) recruitment and technical training of staff to conduct monitoring activities;
 - (vii) establishment of "in-house" operational procedures for environmental monitoring of

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- air, water, noise and wastes;
and
- (viii) such other matters as the Agency may require;
- (c) that the holder of the environmental authorisation shall each year furnish the Agency any information which the Agency may request to determine whether cause exists for modifying, varying, suspending, revoking or re-issuing the authorisation or to determine compliance with the environmental authorisation;
- (f) that the holder of the environmental authorisation shall furnish to the Agency upon request, copies of records kept by the holder of the environmental authorisation;
- (g) that the holder of the authorisation shall report all instances of anticipated non-compliance to the Agency and shall give advance notice to the Agency of any planned changes in the authorised facility or activity which may result in non-compliance with the environmental authorisation;
- (h) that, where there has been non-compliance with the environmental authorisation, the holder of the authorisation shall –
- (i) report to the Agency, within twenty-four hours of the time the holder of the environmental authorisation becomes aware of

the non-compliance, the anticipated manner in which it may endanger human health or the environment;

- (ii) within seventy-two hours submit to the Agency a written report containing a description of the non-compliance, its cause and the period of non-compliance including exact dates and time; and
- (iii) submit a report to the Agency indicating the reasons therefor and the anticipated time it is expected to continue if the non-compliance has not been corrected.

(2) In deciding the terms and conditions of the environmental authorisation the Agency shall have regard to the information submitted under regulations 9, 10 and 17.

Grounds for refusal to grant environmental authorisation.

13. The Agency may refuse to grant an environmental authorisation under these Regulations where it has reason to believe –

- (a) that the application contains or is based on false or misleading representation or information which is false in a material particular;
- (b) in case of an individual that the individual –
 - (i) is under the age of eighteen years; or

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- (ii) is an undischarged bankrupt;
- (c) in case of a body corporate, that –
 - (i) a resolution has been passed against it for its voluntary winding up or an order has been made by a court of competent jurisdiction for its winding up;
 - (ii) a receiver has been appointed to manage any of its assets; or
 - (iii) any of its directors has been convicted of any offence specified under these regulations during the period of five years immediately preceding the application; or
 - (iv) where in the opinion of the Agency, the issue of the environmental authorisation would not be in the best interest of Guyana, having regard to such factors as the Agency considers relevant to the protection to human health or the preservation of the character of the environment, including animals and plants.

Cancellation, suspension and modification of environmental authorisation.

14. (1) The Agency may at any time by notice in writing to the holder of the permit, cancel or suspend an environmental authorisation or impose such conditions as the Agency considers appropriate in addition to or in place of the existing conditions, with effect from such date as the Agency may specify provided that the cancellation, suspension or modification shall not give rise to an additional adverse effect.

(2) The Agency may cancel, suspend or modify an environmental authorisation during its currency for any of the following reasons -

- (a) the holder of an environmental authorisation made a misrepresentation or willful omission in obtaining the environmental authorisation or in any report submitted to the Agency or in any other way obtained the environmental authorisation improperly;
- (b) the holder of an environmental authorisation is contravening any material condition of the environmental authorisation;
- (c) violation of any condition of the environmental authorisation;
- (d) changes in circumstances relating to the authorisation that require either a temporary reduction in the discharge of contaminants;
- (e) the holder of an environmental authorisation –
 - (i) dies;
 - (ii) becomes bankrupt;
 - (iii) goes into liquidation or receivership; or
 - (iv) becomes a party to an amalgamation;

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- (f) there is a change in ownership;
- (g) the holder of an environmental authorisation proposes to change the process of operation of technology used in the facility and which is likely to cause a change in the nature and composition of the discharge;
- (h) the Agency establishes new or revised standards in respect of the operations of the facility; or
- (i) any other change, situation or activity relating to the use of an environmental authorisation that in the judgment of the Agency is not consistent with the Act or these Regulations.

(3) The Agency shall not cancel the environmental authorisation if the Agency considers it is contrary to the public interest to do so but the Agency may suspend the authorisation instead.

(4) The Agency shall, while suspending an environmental authorisation, notify the holder thereof in writing –

- (a) stating the breach which gave rise to the suspension;
- (b) requiring the holder of the permit to remedy the breach;
- (c) stating the time within which the breach is to be remedied; and

- (d) stating whether the environmental authorisation is to be returned within a specified time to the Agency.

(5) The holder of the environmental authorisation under paragraph (4), upon remedying the breach, shall so inform the Agency and the Agency shall, if it is satisfied that the breach is remedied, forthwith return the environmental authorisation to the holder thereof.

(6) A suspension under this regulation may be for a specified period or until the fulfillment of specific conditions or until further order of the Agency.

(7) Before the Agency acts under paragraph (2) the Agency shall –

- (a) notify the holder of an environmental authorisation in writing of its proposed action specifying the reason for the proposed action; and
- (b) allow the holder at least seven days within which to make written submissions to the Agency in relation to the Agency's proposed action.

(8) Where the Agency modifies an environmental authorisation, the Agency shall cancel the existing environmental authorisation and re-issue the holder of the environmental authorisation with a modified environmental authorisation.

Monitoring of environmental authorisation by Agency.

15. (1) Where an environmental authorisation is in force it shall be the duty of the Agency to take the steps needed –

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- (a) for the purpose of ensuring that the activities authorised by the environmental authorisation do not cause pollution of the environment or harm to human health or become seriously detrimental to the amenities of the locality affected by the activities; and
- (b) for the purpose of ensuring that the conditions of the environmental authorisation are complied with.

(2) For the purpose of performing that duty, any officer of the Agency may, if it appears to him that by reason of an emergency it is necessary to do so, carry out work on the land or in relation to plant or equipment on the land to which the environmental authorisation relates or, as the case may be, in relation to the mobile plant to which the authorisation relates.

(3) All expenses incurred by the Agency in effecting works under paragraph (2) shall be borne by the holder of the authorisation.

Appeals.

16. (1) Any person who is aggrieved by a decision of the Agency may at any time within twenty-eight days of the decision, by notice in writing appeal against such decision.

(2) Appeals shall be made to the Environmental Appeals Tribunal, in accordance with rules applicable to appeals under the Act.

PART III
POWER TO GRANT ENVIRONMENTAL
AUTHORISATION

LAWS OF GUYANA

188

Cap. 20:05

Environmental Protection Agency

[Subsidiary]

Environmental Protection (Authorisations) Regulations

Requirement to
apply for
authorisation.

17. (1) An application for an environmental authorisation shall be made to the Agency pursuant to section 11, 19 or 21 of the Act.

(2) An application for an environmental authorisation -

Schedule

(a) shall be completed in triplicate and shall be submitted to the Agency together with the fee as specified in the Schedule;

(b) shall be in respect of one project or facility;

(c) shall contain the following information:

(i) the company or corporate name, the names of directors if any, the name and position of the applicant, the name of the owner or occupier and exact location of the facility;

(ii) proof that the applicant either owns the facility or has a lease or other agreement with the landowner or occupier to enable the applicant to conduct the activity on the facility or has the legal right or ability to conduct the activity without the consent of the landowner or occupier;

(iii) topographic map showing the location of any existing or proposed intake and discharge

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- structures and the location of any discharge;
- (iv) a detailed description of the process or activity generating the discharge;
 - (v) existing or proposed effluent discharge rates;
 - (vi) map and description of the existing or proposed outfall locations;
 - (vii) a description of any substances discharged, their environmental impact, the sources of the substances, the method by which the substances will be discharged and the steps to be taken to reduce the amount of the substances discharged or to mitigate their impacts;
 - (viii) a summary of required environmental monitoring information gathered during any previous approval period which has not already been submitted to the Agency;
 - (ix) an identification of the receiving water or waters;
 - (x) an indication whether or not the facility is proposed or is in existence and an indication whether the application is a new application or application for renewal or variance;
 - (xi) an indication whether or not the facility has ever has ever violated any environmental requirement under the Act;

- (xii) an indication whether or not a permit or licence from any other government entity is required under written law and whether such permits or licences have been obtained;
- (xiii) copies of existing environmental authorization, permits or certificates or licences relating to the activity, that have been granted to the applicant by the Agency or any government entity;
- (xiv) copies of any Environmental Impact Assessment study or reports relating to the activity;
- (xv) characteristics of discharge, including quantity, conditions and concentrations of constituents;
- (xvi) the proposed or actual dates of construction commencement, construction completion, commencement of operation and project completion;
- (xvii) an account of the measures undertaken to avoid, mitigate or remedy the water pollution caused by the operation of the facility;
- (xviii) proof that the applicant can financially mitigate or carry out remedial work; and
- (xix) any other information deemed necessary by the Agency.

(3) Where the applicant is a company, the

[Subsidiary]

Environmental Protection (Authorisations) Regulations

C. 89:01 applicant shall supply the Agency with a certificate of incorporation issued by the Registrar of Companies under section 8 of the Companies Act.

Power to grant an environmental authorisation.

18. (1) Subject to regulations 9 and 10, the Agency shall within six weeks of receipt of a completed application grant an environmental authorisation to the applicant or refuse a grant.

(2) Where the applicant submits further information under regulation 9 or 10 the Agency may grant an environmental authorisation within six weeks of receipt of the submitted or requested information, as the case may be.

(3) Where the Agency considers that it shall not be able to make a determination, after receiving the information under regulation 10 (1) or 11, it may grant to the applicant an interim environmental authorisation which shall be effective for a period not exceeding one year.

(4) The Agency may grant an environmental authorisation to a holder of an environmental authorisation whose authorisation granted under paragraph (3) has been cancelled or has expired.

Duration of environmental authorisation.

19. Subject to regulation 14, unless previously cancelled by the Agency, an environmental authorisation shall be effective until a fixed date specified in the authorisation, which date shall not be beyond five years from the date on which the environmental authorisation was granted.

Application for variance.

20. (1) A person to whom an environmental authorisation has been granted may make an application to the Agency to vary any provision thereof on submission of supporting particulars together with the fee prescribed under regulation 8.

(2) The particulars submitted under paragraph (1) shall be based on supported scientific evidence.

(3) For the purposes of paragraph (1), varying the provisions of an environmental authorisation includes –

- (a) any change in the construction, structure, or arrangement of the facility or any plant, building, equipment, machine, apparatus, mechanism or thing serving the facility or any technology used or installed at the facility from which effluent may be discharged;
- (b) any change in the construction, structure, arrangement, alignment, direction, or condition of any channeling device, system, or facility serving the premises;
- (c) any change in the position and design of any outlet at the point or points of discharge of effluent;
- (d) any change in the quality of the effluent, whether raw or treated at any time or point after it is produced at any facility so as to cause a dilution in the concentration of such effluent;
- (e) any change in the use of raw materials;
- (f) any material change in the quality, quantity, composition of the effluent;

[Subsidiary]

Environmental Protection (Authorisations) Regulations

- (g) any change in the process or rate of production or operational procedures;
- (h) any change in products being manufactured; and
- (i) any change in waste produced.

(4) The Agency may approve the application under paragraph (1) if –

- (a) there is no known practicable means of control to enable compliance with the existing conditions contained in the authorisation; or
- (b) the estimated cost to be incurred for compliance will be prohibitive having regard to the nature and size of the industry, trade or process being carried out in the permitted premises discharging the effluent; or
- (c) the design and construction of any plant or other control equipment require a longer period than the period for compliance with these regulations; or
- (d) the imposition of the conditions as prescribed in the environmental authorisation is not, having regard to all factors, reasonably practicable or are contrary to the intent and spirit of these Regulations.

(5) Where the Agency approves an application

under paragraph (1), the Agency shall cancel the existing permit and re-issue to the applicant a new permit.

(6) Any person who varies the provisions of an environmental authorisation without an approval therefor shall be guilty of an offence and shall be liable on summary conviction to a fine of not less than seventy-five thousand dollars nor more than five hundred thousand dollars and to imprisonment for six months.

Transfer of
environmental
authorisation.

21. (1) No environmental authorisation is assignable or transferable to any person without the prior consent of the Agency having been obtained.

(2) The Agency may, on the application of a holder of an environmental authorisation, transfer his environmental authorisation to another person.

(3) The Agency shall not approve an application under paragraph (2) unless the application is in respect of an activity to which the environmental authorisation applies.

(4) An application for a transfer shall contain –

- (a) the name and address of the proposed transferee; and
- (b) the signatures of the proposed transferee and the applicant.

(5) An application for a transfer shall be accompanied by the environmental authorisation which is to be transferred.

(6) Where the proposed transferee is a company, an application for a transfer shall be accompanied by a Registrar's certificate furnished by the Registrar of Companies

[Subsidiary]

Environmental Protection (Authorisations) Regulations

C. 89:01

under the Companies Act stating that the name of the company is on the Register of Companies.

(7) Where the Agency approves an application under paragraph (2), the Agency shall –

- (a) endorse the transfer on the environmental authorisation submitted under paragraph (6);
- (b) substitute the name of the applicant on the environmental authorisation for that holder; and
- (c) endorse the date the application is approved.

(8) The transferee shall be deemed to be the person to whom the environmental authorisation from the date specified in paragraph (7)(c).

(9) Where the proposed transferee occupies the facility before a final determination of the application is made by the Agency, the conditions and restrictions of the permit shall be binding on the proposed transferee and shall be observed by him, notwithstanding that he is not yet the holder of the environmental authorisation or that the environmental authorisation may have expired before such determination is made.

(10) The Agency may, on the application to transfer an environmental authorisation, modify, revoke or re-issue such authorisation or incorporate such other requirements as the Agency may consider necessary.

Renewal of
environmental
authorisation.

22. (1) Where a holder of an environmental authorisation wishes to continue an activity in respect of which an authorisation was granted beyond the expiration of

Schedule

an environmental authorisation, the holder shall submit an application for a new environmental authorisation to the Agency together with the fee as specified in the Schedule.

(2) An application for a new environmental authorisation shall be made at least six months before the expiration of the environmental authorisation.

(3) Where a holder of an environmental authorisation, after the expiration of an environmental authorisation, has submitted an application for a new environmental authorisation in accordance with paragraph (1), the expired environmental authorisation shall continue in force until the effective date of the new environmental authorisation.

(4) In considering an application for the renewal of an environmental authorisation, the Agency may –

- (a) carry out physical inspections of the facility; and
- (b) specify other standards or conditions with which such facility shall comply.

(5) Where there has been no material change in the circumstances that existed at the time the environmental authorisation was granted, the Agency may grant the renewal.

[Subsidiary]

*Environmental Protection (Authorisations) Regulations*Reg. 8, 17 and
22.**SCHEDULE****FEES**

Application	Small scale (US\$ or G\$ equivalent)	Medium scale (US\$ or G\$ equivalent)	Large scale (US\$ or G\$ equivalent)
Registration Fee	\$20	\$20	\$20
Fee for application for an environmental authorisation	\$50	\$50	\$50
Fee for environmental authorisation	\$100 per year	\$500 per year	\$ 1500 per year
Fee for application to transfer an environmental authorisation	\$50	\$50	\$50
Fee for application to vary an environmental authorisation	\$100	\$200	\$300
Fees for surrender of environmental authorisation	\$50	\$50	\$50
Fee for application to operate a sound-making device, equipment or loudspeaker in a public place	\$25	\$25	\$25
Application for written authorisation of changed conditions	\$ 100	\$ 200	\$ 300