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THE OFFICIAL GAZETTE 2ND AUGUST, 2023
LEGAL SUPPLEMENT — A

GUYANA

ACT NO. 10 OF 2023

THE RADIATION SAFETY AND SECURITY ACT 2023

I assent.

Mohamed Irfaan Ali,
President.
2nd August, 2023

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SCHEDULE-Meetings and Procedure of the Board and Related Matters

AN ACT to provide for the safe, secure and peaceful uses of ionizing radiation, protect persons and the environment against the harmful effects of radioactive waste, establish the Radiation Safety and Security Board and for connected matters.

A.D.2023 Enacted by the Parliament of Guyana:-

PART I
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Radiation Safety and Security Act 2023 and shall come into operation on a day the Minister may, by order, appoint.

Interpretation.

2. In this Act –

"activity" means-

(a) the design, manufacture, construction, import, export, distribution, sale, loan, commissioning, use, operation, maintenance, repair, transfer, decommissioning or possession, of radiation sources and equipment capable of emitting ionizing radiation for industrial, education, research, agriculture and medical purposes;

(b) the transport of radioactive material or nuclear material;

(c) the mining and processing of radioactive ores;

(d) the sitting, construction, commissioning, operation and decommissioning and closing down of facilities;

(e) radioactive waste management activities, such as the discharge of effluents;

(f) the clean up of sites affected by residues from past activities; and

(g) any activity as defined in the relevant Safeguards Agreement between Guyana and the IAEA;

"authorisation" means the granting by the Board or other regulating entity of a licence under this Act or any other law;

"Board" means the Radiation Safety and Security Board established under section 6;

"clearance" means the removal of radioactive material or radioactive objects within authorised practices from any further control of the Board;

"decommissioning" means all steps leading to the release of a facility, other than a disposal facility, from regulatory control other than confirming the decommissioned status of a facility and the processes of decontamination and dismantling;

"discharge" means planned and controlled releases into the environment, as a legitimate practice, within limits authorised by the Board, of liquid or gaseous radioactive material that originates from regulated facilities during normal operation;

"disposal" means the emplacement of radioactive waste in an appropriate facility without the intention of retrieval;

"excluded" means the deliberate exclusion of a particular category of exposure from the scope of this Act on the grounds that it is not considered amenable to regulatory control;

"exemption" means-

(a) the determination by the Board that a source or practice need not be subject to some or all aspects of regulatory control on the basis that-

(i) the exposure, including potential exposure, due to the source or practice is too small to warrant the application of those aspects; or

(ii) that this is the optimum option for protection irrespective of the actual level of the doses or risks;

"export" means the physical transfer, originating from an exporting State, into an importing State, of nuclear or other radioactive material, including sources;

"facilities" means nuclear facilities, irradiation installations, mining and raw material processing facilities such as uranium mines, radioactive waste management facilities, and any other places where radioactive material is produced, processed, used, handled, stored or disposed of, on such a scale that consideration of protection and safety is required;

"Fund" means the Radiation Safety and Security Fund established under section 16;

"IAEA" means the International Atomic Energy Agency established under its Statutes made at the Headquarters of the United Nations, on 26th day of October, 1956;

"import" means the physical transfer of nuclear or other radioactive material, including sources, into Guyana or to a recipient in another State;

"inspector" means a person appointed by the Minister under section 11;

"intervention" means any action intended to reduce or avert exposure or the likelihood of exposure to sources which are not part of a controlled practice or which are out of control as a consequence of an accident;

"international instrument" means the international treaties to which Guyana is a party in connection with nuclear weapons and radiation protection;

"ionizing radiation", for the purposes of radiation protection, means radiation capable of producing ion pairs in biological materials;

"Minister" means the Minister responsible for health;

"notification" means a document submitted to the Board by a legal person to notify an intention to carry out a practice or other use of a source;

"nuclear facility" means-

(a) any facility where activities or practices utilising nuclear material are conducted, including a nuclear power plant, research reactor, fuel fabrication plant, spent fuel storage facility, enrichment plant, reprocessing facility or any other facility determined by the Board; or

(b) for the purposes of the application of IAEA safeguards, a facility as defined in the relevant Safeguards Agreement between Guyana and the IAEA;

"nuclear material" means-

(a) plutonium, uranium-233, or uranium enriched in the isotopes uranium-233 or uranium-235, or any other material the Board determines should be classified as nuclear material; or

(b) for purposes of the application of IAEA safeguards, any special fissionable material or source material as defined in the relevant Safeguards Agreement between Guyana and the IAEA, but does not include the application of source material to ore or ore residue;

"nuclear or radiological emergency" means an emergency in which there is, or is perceived to be, a hazard due to-

(a) the energy resulting from a nuclear chain reaction or from the decay of the products of a chain reaction; or

(b) radiation exposure;

"operator" means any organisation or person applying for an authorisation, or that is authorised or responsible for nuclear, radiation, radioactive waste or transport safety when undertaking activities or in relation to any nuclear facility or source and includes private individuals, governmental bodies, consignors or carriers, licensees, hospitals or self-employed persons;

"orphan source" means a radioactive source which is not under regulatory control, either because it has never been under regulatory control or because it has been abandoned, lost, misplaced, stolen or transferred without proper authorisation;

"practice" means any human activity that-

(a) introduces additional sources of exposure or exposure pathways;

(b) extends exposure to additional people; or

(c) modifies the network of exposure pathways from existing sources in a way that increases the exposure or the likelihood of exposure of people or the number of people exposed;

"radiation generator" means any device electrically or otherwise capable of generating ionizing radiation such as X rays, neutrons, electrons or other charged particles, that may be used for scientific, industrial or medical purposes;

"radiation source" means a radiation generator, or a radioactive source or other radioactive material outside the nuclear fuel cycles of research and power reactors;

"radioactive material" means material designated in the Act or by the Board as being subject to regulatory control;

"radioactive source" means radioactive material that is permanently sealed in a capsule or closely bonded in a solid form and that is not exempt from regulatory control and includes any radioactive material released if the radioactive source is leaking or broken, but does not mean material encapsulated for disposal, or nuclear material within the nuclear fuel cycles of research and power reactors;

"radioactive waste" means material, in whatever physical form, remaining from practices or interventions and for which no further use is foreseen-

(a) that contains or is contaminated with radioactive substances and has an activity or activity concentration higher than the level set for clearance from regulatory requirements; and

(b) exposure to which is not excluded under any applicable law;

"registration" means a form of authorisation for practices of low or moderate risk whereby the person responsible for the practice has, as appropriate, prepared and submitted a safety assessment of the facility or equipment to the Board;

"Safeguards Agreement" means the Agreement signed on May 23, 1997 between the Government of Guyana and the IAEA for the Application of Safeguards in connection with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean and the Treaty on the Non-Proliferation of Nuclear Weapons;

"safety" means the protection of people and the environment against radiation risks, and the safety of facilities and activities that give rise to radiation risks;

"security" means the prevention and detection of, and response to, theft, sabotage, unauthorised access, illegal transfer or other malicious acts involving nuclear or other radioactive material, or their associated facilities;

"source" means anything that may cause radiation exposure by emitting ionizing radiation or by releasing radioactive substances or material and can be treated as a single entity for protection and safety purposes;

"transport" means all operations and conditions associated with and involved in the movement of nuclear or other radioactive material including the

design, manufacture, maintenance and repair of packaging, and the preparation, consigning, loading, carriage including in-transit storage, unloading and receipt at the final destination of loads of such material and packages.

Objectives of the Act.

3. The objectives of this Act are to-

(a) allow for the beneficial and peaceful uses of ionizing radiation and its applications;

(b) provide for the adequate protection of people and the environment, against the harmful effects of ionizing radiation and for the safety and security of radiation sources;

(c) establish the Radiation Safety and Security Board for the purpose of exercising regulatory control over the peaceful uses of ionizing radiation; and

(d) enable Guyana to meet its obligations under relevant international instruments entered into by Guyana, in particular the Agreement between Guyana and the IAEA for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons and with the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean and any protocol thereto.

Scope of the Act.

4.(1) This Act shall apply to all activities and practices involving the peaceful uses of ionizing radiation conducted in Guyana.

(2) This Act shall not apply to non-ionizing sources of radiation or to activities or practices involving exposures that have been excluded from regulatory control under any law.

Prohibited activities.

5. (1) The uses of ionizing radiation shall be for peaceful purposes only.

(2) Any activities or practices related to the acquisition or development of nuclear explosives, radiological dispersal devices, or other non-peaceful uses of nuclear or other radioactive materials and related technology or assisting others in such activities are prohibited.

(3) Any person who contravenes this section commits an offence and shall be liable on indictment to a fine of five million dollars and imprisonment for ten years.

PART II

THE RADIATION SAFETY AND SECURITY BOARD

Establishment of the Radiation Safety and Security Board.

6.(1) There is hereby established a body corporate to be known as the Radiation Safety and Security Board for the regulatory control of activities involving the peaceful use of ionizing radiation.

(2) The Board shall consist of the following seven members appointed by the Minister-

(a) a representative of the Ministry responsible for Health;
(b) a representative of the Environmental Protection Agency;
(c) a representative of the Guyana Revenue Authority;
(d) a representative of the Ministry responsible for Labour proficient in the area of occupational health and safety;
(e) a police officer from the Special Organised Crime Unit; and
(f) two other persons qualified in any of the following-

(i) clinical oncology;

(ii) radiology; or

(iii) petroleum engineering.

(3)The Minister shall appoint a member of the Board to be the Chairperson of the Board and another member to be the Deputy Chairperson of the Board.

(4)The members of the Board shall be appointed by the Minister for such period not exceeding two years as may be specified in their letters of appointment and the membership of the Board as first constituted and every change in the membership thereof shall be notified in the *Gazette*.

(5)The appointment of members to the Board shall be staggered, by making the first appointment of any three members, except the Chairperson, for one year only.

(6) The remuneration and other terms and conditions of appointment of members of the Board shall be such as may be determined by the Minister.

(7) A member of the Board, who is a public officer, shall have and may exercise in like manner, all the powers conferred upon an inspector by this Act.

(8) Where a vacancy arises in the membership of the Board or a member of the Board is temporarily absent or incapable of performing the member's duties because of illness or other cause, the Minister may appoint a person to act in the place of that member during the period of the vacancy or the period of absence or temporary incapacity.

(9) A person appointed to fill a vacancy shall hold office as a member of the Board for the unexpired term of the person's predecessor.

(10) A member of the Board may at any time resign from membership on the Board by notice in writing to the Minister.

(11) The Minister may at any time revoke the appointment of a member of the Board if the member-

(a) is declared bankrupt in accordance with the laws of Guyana or any other country;

(b) is for whatever reason incapable of performing or unable to perform their duty as a member;

(c) is absent from three consecutive meetings without leave of the Board;

(d) is convicted of an indictable offence or is sentenced to imprisonment for a term of six months or more;

(e) acts in a manner that brings the Board into disrepute; or

(f) fails to disclose an interest in a matter for consideration before the Board and participates in the deliberations of the Board in respect of that matter.

Meetings and procedure of the Board.

7. The provisions of the Schedule shall have effect in relation to the meetings and procedure of the Board and other related matters.

Schedule

Functions of the Board.

8. The functions of the Board shall be to-

(a) assist the Government in the development of national policies and measures for the regulatory control of activities and practices governed by this Act;

(b) establish standards for the protection of individuals, society and the environment from potential adverse effects of ionizing radiation;

(c) issue, amend, suspend or revoke licences and set conditions for practices and activities involving ionizing radiation;

(d) define exemptions from regulatory control;

(e) inspect, monitor and assess activities and practices for the purpose of verifying compliance with this Act and the terms and conditions of licences;

(f) take enforcement measures in the event of non-compliance with this Act or the terms and conditions of licences;

(g) define the obligations, including financial ones, of persons or entities authorised to conduct activities or practices;

(h) ensure that corrective actions are taken if unsafe or potentially unsafe conditions are detected at any location where authorised activities are conducted;

(i) confirm the competence of personnel responsible for the safe operation of a facility, activity or practice;

(j) establish a schedule of fees or charges for authorisations in accordance with the financial rules and procedures of Guyana;

(k) obtain the advice or views of experts necessary for the performance of its functions including through the hiring of consultants, the contracting of specific projects, or the establishment of permanent or *ad hoc* advisory bodies or committees;

(l) define the exposures of persons to ionizing radiation that are excluded from the scope of application of this Act because they are not amenable to regulatory control;

(m) establish and maintain a national register of radiation sources;

(n) establish and maintain a national register of persons authorised to carry out activities or practices under this Act;

(o) cooperate with the IAEA in the application of safeguards in accordance with the Safeguards Agreement, and any protocols thereto, between Guyana and the IAEA, including conducting inspections and visits, carrying out complementary access and providing any assistance or information required by designated IAEA inspectors in the fulfilment of their responsibilities;

(p) establish and maintain a system of accounting for, and control of, nuclear material and a national system for the registration of licences for nuclear material, and to establish the necessary reporting and record keeping and requirements pursuant to the Safeguards Agreement, and any protocols thereto, between Guyana and the IAEA;

(q) establish and implement, in cooperation with Government ministries and other entities, a system of control for the export and import of nuclear and other radioactive material, sources, equipment, information and technology determined to be necessary to implement relevant international commitments of Guyana;

(r) establish regulatory measures for the security of nuclear and other radioactive material, and their associated facilities, including measures for the detection, prevention and response to unauthorised or malicious acts involving such material, or facilities;

(s) participate in the definition of the design basis threat for the implementation of security provisions;

(t) cooperate with other relevant agencies of Guyana in establishing and maintaining a plan for preparedness for

and response to emergencies involving nuclear or other radioactive material in accordance with the national emergency response plan;

(u) communicate directly with other governmental bodies in all circumstances it considers necessary for the effective exercise of its functions;

(v) carry out or arrange for the conduct of research on radiation safety and security necessary to implement its functions;

(w) cooperate with other governmental or non-governmental bodies having competence in such areas as health and safety, environmental protection, security and transportation of dangerous goods;

(x) exchange information and cooperate with regulatory bodies in other States and with relevant international organisations concerning matters arising from the exercise of its functions;

(y) establish appropriate mechanisms and procedures for informing and consulting the public and other stakeholders about the regulatory process and the safety, health and environmental aspects of regulated activities and practices, including incidents, accidents and abnormal occurrences;

(z) obtain information, documents and opinions from private and public organisations or persons as may be necessary and appropriate for the conduct of its functions;

(aa) sensitise licensees about their responsibilities under the Act and the regulatory process; and

(bb) conduct any other functions that are necessary in its opinion to protect people and the environment of Guyana.

Cooperation between the Board and other authorities.

9. (1) Subject to subsection (2), the conferral of powers of investigation upon the Board by this Act shall not be construed as affecting the exercise of any functions relating to the investigation or prosecution of offences or other unlawful conduct conferred upon any other investigative authority, whether the functions are similar to those powers or not.

(2) Every investigative authority shall, in exercise of its functions, cooperate with the Board.

(3) The Board shall cooperate with an investigative authority in the exercise of any functions conferred on the investigative authority.

(4) The Board may provide copies of any documents and share any other information which it receives arising from the performance of its functions under this Act, with any investigative authority.

(5) The Board may cooperate, and its cooperation may include the provision of copies of any documents and the sharing of other information referred to in subsection (4), with any law enforcement agency or regulatory authority in a jurisdiction outside Guyana where the Board is satisfied that the law enforcement agency or regulatory authority-

(a) has requested cooperation; and

(b) will use documents or other information, in furtherance of those responsibilities relating to ionizing radiation, nuclear technology, weapons of mass destruction or the proliferation financing thereof and for no other purpose.

Staff and experts of the Board.

10. (1) The Board may employ such persons it considers necessary for the due and efficient performance of its functions under this Act on any terms

and conditions as are agreed upon between the Board and the person and subject to approval of the Minister.

(2) The Board may, at any time, retain the services of experts and other professional persons, including consultants, having specialised knowledge relevant to the Board's functions and may pay such persons any remuneration in respect thereof as the Board, with the approval of the Minister, may determine.

Appointment of inspectors.

11. The Minister may appoint suitably qualified persons to be inspectors for the purpose of this Act and notice of any such appointment shall be published in the *Gazette* and shall be officially and judicially noticed.

Immunity of members and staff of the Board.

12. No action, suit, prosecution or other proceedings shall be brought or instituted against any member of the Board or person employed by the Board in respect of anything done in good faith in the execution of the provisions of this Act.

Disclosure of interest.

13. (1) A member of the Board shall disclose, in writing, any personal interests or otherwise that the member has in the activities or practices regulated by the Board.

(2) A member of the Board who has an interest in a matter for consideration shall-

(a) disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) not participate in the deliberations of the Board in respect of that matter.

Secretariat of the Board.

14. The Minister shall establish a secretariat which shall be responsible for carrying out the administrative functions of the Board.

Ministerial directives.

15. The Minister may, in writing, give policy directives that are consistent with the provisions of this Act to the Board and the Board shall give effect to those directives.

PART III
FINANCIAL PROVISIONS

Establishment of the Radiation Safety and Security Fund.

16. (1) There is established the Radiation Safety and Security Fund for the purpose of discharging the functions of the Board under this Act and which shall be maintained by the Board.

(2) The Fund shall consist of-

(a) such sums as may be provided to the Board by or under an appropriation law;

(b) such fees as may be charged by the Board for services rendered by it; and

(c) all other sums or property which may, in any manner, be received by, or become payable to, or be vested in the Board in the performance of its functions or in respect of any matter incidental to its functions.

Application of Fund.

17. The money in the Fund shall be applied in defraying the following expenditure-

(a) the remuneration and allowances of-

(i) members of the Board; and

(ii) any other person retained or appointed by the Board or Minister under this Act;

(b) research and development projects, training and certification and other related matters; and

(c) any other expenditure authorised by the Board in the performance of its functions.

Charging of fees by the Board.

18. The Board may charge fees for any services rendered by it under this Act.

Account and audit.

19. (1) The Board may, for the purpose of carrying out its functions under this Act, open and operate any type of account with any bank in Guyana.

(2) The Board shall keep accounts of its transactions to the satisfaction of the Minister and the accounts shall be audited annually by an auditor appointed by the Minister.

(3) The members, officers and other employees of the Board shall grant to the auditor appointed under subsection (2) access to all books, documents, cash and securities of the Board and shall give to the auditor on request all information as may be within their knowledge in relation to the operation of the Board.

(4) The provisions of this section are without prejudice to the powers of the Auditor General under the Audit Act to audit the accounts of the Board.

Cap. 73:01

Exemption from taxation.

20. The Board shall be exempt from all taxation including customs duties, capital gains, income tax and property tax.

Annual report.

21. The Board shall submit a report annually to the Minister within three months after the end of the calendar year on the activities of the Board for the previous year commencing one year after the coming into operation of this Act.

PART IV

NOTIFICATION AND LICENSING

Notification.

22. (1) Any person who intends to engage in an activity or practice, other than the mining of uranium or thorium ore as provided for under Part X, shall notify the Board, in writing, of its intention to carry out such activity or practice in the form and within the time limits required by the Board.

(2) Upon receipt of a notification under subsection (1), the Board shall, within seven days after receipt, decide whether the proposed practice or activity requires a licence.

(3) Where the Board determines under subsection (2) that-

(a) a licence is necessary, the Board shall inform the person, in writing, to submit an application in accordance with section 24; or

(b) a licence is not necessary, the Board shall inform the person, in writing, of that determination.

Limitation on activities and practices.

23. (1) Subject to the provisions of this Act and except pursuant to a licence, no person shall engage in any activity or practice.

(2) Any person who contravenes this section commits an offence and shall be liable on summary conviction-

(a) in the case of an individual, to a fine of one million dollars or imprisonment for six months; or

(b) in the case of a body corporate, to a fine of five million dollars.

Application procedure.

24. (1) Every person who is required to apply to the Board for a licence shall do so in the manner and form prescribed by the Board.

(2) The application shall be accompanied by the prescribed application fee.

(3) The Board may require the applicant for a licence to provide any further information that it considers necessary to determine the application.

Submission of safety and security plan.

25. (1) The Board may, in writing, require the applicant for a licence to submit-

(a) a radiation safety plan in respect of any radiation sources to which the application relates; or

(b) a nuclear security plan, in respect of any radioactive sources to which the application relates:

Provided that where the application is for a possession licence, the Board shall, in writing, require the applicant to submit a radiation safety plan or a nuclear security plan, as applicable.

(2) A plan under subsection (1) shall demonstrate how the applicant intends to comply with the fundamental principles of safety and nuclear security that apply to the sources, and the other requirements of this Act and any applicable codes of practice.

(3) The content and format of a radiation safety plan and nuclear security plan may be prescribed by regulations.

Publication of licensing process.

26. (1) The Board shall make publicly available on its official website information on the licensing process, including-

(a) the identification of activities or practices requiring a licence;

(b) procedures and schedules for application, consideration and issuance of licences;

(c) criteria to be considered in licensing decisions and their legal basis, including a requirement that an explanation of the reasons for rejection of a submission shall be provided to the applicant;

(d) conditions or qualifications that shall be met by the applicant for a licence;

(e) procedures and requirements for public participation in the licensing process;

(f) procedures and requirements for the release of information concerning licensing proceedings, including measures for the protection of classified and proprietary information;

(g) a description of any fees required for licences; and

(h) the types of activities or practices requiring public consultation prior to approval of a licence.

(2) The Board shall implement appropriate means of informing persons in the vicinity of the proposed activity or practice, the public and other interested parties, and the media about the safety aspects, including health and environmental aspects, of facilities and activities and about regulatory processes, and consult parties in the vicinity, the public and other interested parties, as appropriate, in an open and inclusive process.

(3) The Board shall establish appropriate means of informing and consulting interested parties and the public about the possible radiation risks associated with facilities and activities, and about the processes and decisions of the Board.

Refusal of application.

27. (1) The Board shall not issue a licence where-

(a) the application contains or is based on a false or misleading representation or information which is false in a material particular;

(b) the Board has determined on reasonable grounds that-

(i) the activity or practice cannot be conducted in a manner that adequately ensures the protection of people and the environment; or

(ii) the activity or practice will not be for peaceful purposes consistent with the obligations of Guyana under relevant international instruments, as appropriate;

(c) the Board is not satisfied that the applicant is suitably qualified or fit and proper to be a licensee, having regard to such criteria as the Board may prescribe;

(d) the applicant has not developed an appropriate emergency preparedness and response plan approved by the Board; and

(e) the applicant has not complied with this Act including any subsidiary legislation made under the Act.

(2) Where the Board refuses to grant a licence, it shall inform the applicant, in writing, stating the reasons for the refusal and the right of appeal under section 95.

Conditions of licence.

28. (1) The grant of a licence is subject to compliance by the licensee with such terms and conditions as the Board may specify.

(2) A licence is non-transferable and only valid for the period specified in the licence.

(3) A licence shall cease to be valid when any time limit established by regulations or condition of licence has expired.

Renewal of licence.

29. (1) A licensee may apply for renewal of a licence in the prescribed form and shall pay the prescribed fee within three months prior to the expiration of the licence or such longer period as the Board may determine.

(2) A licence shall be renewed if the Board is satisfied that-

(a) there is continued compliance by the licensee with this Act;

(b) there has been no material change in the circumstances which existed at the time the licence was granted; and

(c) the licensee has satisfied such other requirements as may be prescribed.

Modification of licence.

30. (1) The Board may modify a licence on its own initiative or on the application of the licensee.

(2) A modification may involve the imposition, modification, or the revocation, of a condition of the licence.

(3) A modification takes effect at the time of receipt of modification, in writing, by the licensee or at any later time as may be specified in the notification.

Relinquishment of licence.

31. A licence may be relinquished by the licensee upon notice to the Board and upon determination by the Board that relinquishment will not jeopardise the protection of people or the environment.

Suspension of licence.

32. (1) The Board may suspend a licence where the Board determines that-

(a) the licensee has breached any provisions of this Act, any subsidiary legislation made under the Act or any condition of the licence;

(b) the conditions under which the licence was issued can no longer be complied with; or

(c) continued activity or the practice under the licence would pose an unacceptable risk to people or the environment.

(2) Where the Board intends to suspend a licence, the Board shall issue to the licensee a Notice of Suspension which shall-

(a) contain information detailing-

(i) the areas in which the licensee is not complying with this Act, any subsidiary legislation made under the Act or any conditions of the licence;

(ii) the corrective action which is required to be done for the licensee to be compliant with this Act, any applicable subsidiary legislation and the conditions of the licence; and

(iii)the timeframe under which all corrective actions should be completed; and

(b) state, that failure to complete the required corrective actions may result in the suspension or revocation of the licence.

(3) Where a licensee is unable to complete any of the corrective actions in the timeframe set out in the Notice of Suspension, the licensee shall inform the Board and the Board may extend the period specified in the Notice of Suspension for the licensee to comply.

(4) Subject to subsection (3), where a licensee fails to complete any of the corrective actions specified in the Notice of Suspension within the timeframe specified, the Board may suspend the licence.

Revocation of licence.

33. (1) The Board may revoke a licence where it is satisfied that-

(a) in the case of an individual, the licensee has died, or has, since the grant of the licence, suffered from a mental or physical condition, which renders the licensee incapable of properly carrying out the activities or practices to which the licence relates;

(b) the application for the licence, or any communication in relation to the licence, contains any false or misleading information or omits any material particular;

(c) the licensee has failed to remedy the breach which gave rise to the suspension of the licence, within the time specified in the Notice of Suspension;

(d) the nature and scope of the operations of a facility have been so altered as to cause the area approved for radiation activity to cease to operate as a facility for the purposes of this Act;

(e) any fee or other charge payable, under this Act and any subsidiary legislation made under the Act, by the licensee remains unpaid for a period of ninety days after the suspension of the licence; or

(f) any of the grounds mentioned in section 32 (1).

(2) Before revoking a licence under this section, the Board shall notify the licensee, in writing, of the proposed revocation, stating the reasons for the revocation.

(3) Where a licence has been revoked, the licensee shall cease all practices and activities under the licence.

(4) The suspension or revocation of a licence shall not relieve the licensee of the responsibility for the safety and security of the facility, the radiation sources or any other radioactive material.

False or misleading information.

34. Any applicant under this Part who intentionally misleads the Board by providing false or misleading information to the Board commits an offence and shall on summary conviction be liable-

(a) in the case of an individual, to a fine of five hundred thousand dollars; or

(b) in the case of a body corporate, to a fine of two million dollars.

Publication of information.

35. The Board shall make publicly available on its official website a statement providing information on the procedures and requirements for suspension, modification, renewal, revocation or relinquishment of licences.

Responsibilities of the authorised person or entity.

36. (1) Any person or entity licensed to conduct an activity or practice shall have the primary responsibility for the safe and secure conduct of that activity or practice and for ensuring compliance with this Act and all applicable regulatory requirements and conditions of the licence related to that activity or practice.

(2) Any person or entity licensed to conduct an activity or practice shall provide the Board with any requested assistance in the performance of its regulatory functions.

(3) Any person or entity ceasing licensed activity or practice shall inform the Board prior to the cessation of that activity or practice.

PART V
INSPECTION

Inspection programme.

37. (1) The Board shall establish an inspection programme to monitor compliance with the requirements of this Act, including any subsidiary law made pursuant to this Act, and the terms and conditions of any licence issued pursuant to this Act.

(2) The Board shall establish qualifications for inspectors and a training programme to ensure a high level of competence for inspectors.

(3) The Board shall have the authority to station inspectors at the site of an activity or practice where this is determined to be necessary.

(4) The Board shall ensure that the inspection programme is supported by adequate financial, technical and human resources to meet its objectives.

Power of inspectors.

38. (1) Any inspector may, for the purpose of executing the purposes of this Act, and subject to the direction of the Board-

(a) inspect facilities and activities to verify compliance with this Act, applicable subsidiary legislation and conditions of licence;

(b) enter any premises and vehicles at a reasonable time with or without consent of the owner;

(c) obtain information about the status of the radiation safety and security of any premises or facility where activities or practices are carried out;

(d) investigate any incident or accident involving nuclear material or radiation sources;

(e) question any person who has duties which in the view of the authorised representatives of the Board may be pertinent to the inspection being carried out;

(f) examine any books, documents or other records found in any premises or vehicle which on reasonable grounds the inspector believes contain or are likely to contain any information relevant to the enforcement of this Act and make copies thereof or extracts therefrom;

(g) confiscate unlicensed devices; and

(h) perform such other functions as may be prescribed or as may be authorised by the Board for the purposes of this Act.

(2) In addition to the powers set out in subsection (1), for the purpose of carrying out the provisions of this Act, all inspectors shall have the same powers, authorities and privileges as are given by law to members of the Guyana Police Force.

(3) An inspector may, at any time, take for analysis-

(a) sufficient samples of any material which the inspector suspects to be contaminated; or

(b) any equipment which the inspector suspects to be defective.

(4) Whenever practicable, reasonable notice that an inspection is to be carried out should be provided to the licensee by the Board, except in the event of emergencies or unusual occurrences, or where unauthorised activities or criminal violations may have occurred, inspections may be conducted immediately or upon short notice.

(5) Inspection results shall be documented and recorded, and be made available to relevant officials and licensed persons and other entities as a basis for corrective or enforcement action in particular cases or for development of the regulatory process.

Orders of inspectors.

39. (1) In any case where an inspector has determined that an activity or practice is being conducted in violation of this Act, any subsidiary legislation made under the Act or the terms and conditions of a licence and poses an immediate risk of injury to persons or substantial damage to property or the environment, the inspector may-

(a) immediately order the temporary suspension of the activity or practice;

(b) order the authorised person or entity to prohibit workers who do not meet applicable requirements from engaging in the activity or practice; or

(c) order that nuclear or radioactive material originating from a suspended activity or practice be safely and securely stored.

(2) Decisions taken by inspectors under subsection (1) shall continue to be in force unless and until-

(a) withdrawn by the inspector;

(b) reversed or modified by action of the Board; or

(c) reversed or quashed by an order of the High Court pursuant to section 95.

(3) In cases of an order of an inspector, a report shall be issued containing-

(a) relevant findings and identifying the evidentiary basis for the findings;

(b) measurements;

(c) test results;

(d) explanations; or

(e) other information deemed relevant by the inspector.

(4) The report mentioned in subsection (3) shall be made available to the licensee, who shall have the right to submit explanations or objections within thirty days of the issuance of the report.

Obstructing or hindering an inspector.

40. Any person who obstructs or hinders an inspector in the carrying out of the inspector's duties under this Part commits an offence and shall be liable on summary conviction-

(a) in the case of an individual, to a fine of one million dollars; or

(b) in the case of a body corporate, to a fine of five million dollars.

PART VI
RADIATION PROTECTION

Fundamental principles of radiation protection.

41. The following fundamental principles of radiation protection shall apply to all activities and practices conducted in Guyana-

(a) the justification principle, that is to say, no activity or practice shall be authorised unless it produces sufficient benefit to exposed persons or to society in a manner that offsets the radiation harm that it may cause, considering social, economic and other relevant factors;

(b) the optimisation principle, that is to say, in relation to radiation exposures from any particular activity or practice, radiation protection measures should ensure that doses, the number of persons exposed and the likelihood of incurring exposure are at all times kept as low as reasonably achievable, considering social and economic factors; and

(c) the dose limitation principle, that is to say, activities and practices shall be conducted in a manner that ensures that the total dose that a person may experience does not exceed any prescribed dose limit, so that no person is subject to an unacceptable risk attributable to radiation exposure.

Regulatory control of radiation safety.

42. (1) The Board may, in consultation with the Minister, make regulations for-

(a) the protection of persons from injury due to exposure to ionizing radiation; and

(b) the required dose limits for persons that may not be exceeded in conducting activities under regulatory control.

(2) Any dose limits shall take into account the recommendations of the IAEA and the International Commission on Radiation Protection.

(3) The Board shall identify sources or practices to be exempted from regulatory control based on the following criteria-

(a) that the radiation risk for persons is sufficiently low to be of no regulatory concern;

(b) that the collective radiological impact is sufficiently low that regulatory control is not warranted; and

(c) that the source or practice is considered to be inherently safe, with no likelihood of creating situations that could result in a failure to meet the criteria in paragraph (a) or (b).

(4) The Board shall establish clearance levels or values below which radioactive material or radioactive objects within authorised activities and practices can be released from regulatory control.

Radiation protection requirements for licences.

43. (1) The Board shall issue directives for radiation protection requirements that shall be met before any activity or practice can be licensed.

(2) The requirements shall include that the licensee-

(a) possesses an adequate understanding of the fundamental principles of radiation protection;

(b) takes all steps necessary for the protection and safety of workers and the public by keeping doses below the relevant threshold and ensuring that all reasonable steps are taken to minimise adverse effects on the population, at present and in the future;

(c) plans and implements the technical and organisational measures necessary to ensure adequate safety, including effective defences against radiological hazards;

(d) prepares and implements an appropriate emergency plan;

(e) ensures compliance with the dose limits established by the Board and that the Board monitors the radiation exposure of workers;

(f) possesses adequate human and financial resources to conduct the proposed activity or practice in a manner that ensures safety and security;

(g) makes adequate financial arrangements for waste disposal, decommissioning and potential liability for radiological or nuclear damage;

(h) provides access by inspectors of the Board to locations necessary for the performance of their duties;

(i) does not modify its conduct of any licensed activity or practice in a manner that could affect the protection of workers, the public or the environment without seeking the approval of the Board; and

(j) provides, upon request or pursuant to the requirements in this Act and any other relevant law, all information considered to be necessary by the Board.

Responsibilities of licensee to ensure radiation protection.

44. (1) The licensee shall be primarily responsible for ensuring safety in activities involving ionizing radiation.

(2) The licensee and any other person having responsibility for safety shall ensure compliance with the requirements and dose limits established by the Board and shall ensure that radiation doses to workers and the public, including doses from releases into the environment, are as low as reasonably achievable, taking into account social and economic factors.

(3) The licensee shall appoint a radiation protection officer who shall ensure that measures are implemented to safeguard the use of all radiation material or designate a member of the licensee's staff to perform the functions of a radiation protection officer.

Medical practices.

45. With respect to medical practices, the Board may, in consultation with the Minister, make regulations prescribing the following-

(a) the qualifications and training of users;
(b) measures for the protection of persons using radiation producing equipment and radionuclides;
(c) measures to protect patients, including the justification of practices and optimisation of exposures;
(d) design and performance criteria for radiation producing equipment and devices containing radionuclides; and
(e) measures for the safety and security of radioactive sources.

Protection of patients.

46. A licensee who operates a facility comprising a medical practice shall ensure that no patient is administered a diagnostic or therapeutic exposure unless the exposure is prescribed by a medical practitioner who is assigned the primary task of and obligations for ensuring overall patient protection and safety in the prescription of, and during the delivery of, medical exposures.

PART VII
RADIOACTIVE SOURCES

Regulatory control of radioactive sources.

47. (1) The Board shall establish a system of control over radioactive sources and devices in which the sources are incorporated to ensure that they are safely managed and securely protected during their useful lives and at the end of their useful lives.

(2) In accordance with IAEA guidance, the Board shall adopt a categorisation of sources based on the potential injury to people and the environment that could result if those sources are not safely managed or securely protected.

(3) In accordance with the international obligations and commitments of Guyana, the Board shall, after consultation with the Commissioner General of the Guyana Revenue Authority, establish a list of goods subject to control for purposes of import and export from Guyana.

Responsibility for safety and security of radioactive sources.

48. The primary responsibility for ensuring the safe and secure use of radioactive sources rests with the person or entity possessing a licence relating to such sources.

National register of radioactive sources.

49. (1) The Board shall establish and maintain a national register of radioactive sources and the categories of radioactive sources required to be included in the national register.

(2) The Board shall adopt measures to protect information contained in the national register to ensure the safety and security of these sources.

Export and import of radioactive sources.

50. (1) The Board may, with the approval of the Minister and in consultation with the Commissioner General of the Guyana Revenue Authority, make regulations setting out the requirements and procedures for the licensing of the export, import and transit of radioactive sources from, to or through Guyana.

(2) The procedures established under subsection (1) shall provide for an evaluation of information to ensure that a recipient is authorised to receive the requested source and has the capacity to ensure its safety and security.

(3) For applications to export high level category of sources as may be prescribed, the Board shall satisfy itself, insofar as practicable, that the importing State has the appropriate technical and administrative capability, resources and regulatory structure for the safe and secure management of the requested sources.

Recovery of orphan sources.

51. (1) The Board shall require authorised persons to promptly report any loss of control over radioactive sources, or any other situation or incident in connection with a radioactive source that may pose a significant risk of radiological injury to persons or substantial damage to property or the environment.

(2) The Board shall coordinate the development of a national strategy for promptly gaining or regaining control over orphan sources.

(3) The national strategy shall be coordinated with the appropriate public agencies, including Ministries, and approved by the Minister.

PART VIII

SAFETY OF NUCLEAR FACILITIES AND DECOMMISSIONING

Authorisation requirement.

52. (1) No person shall, without obtaining a licence from the Board, -

(a) construct or operate-

(i) a nuclear facility or conduct related activities; or

(ii) a nuclear research reactor or any related nuclear facility; or

(b) conduct activities specified by the Board or practices associated with operation of a nuclear facility.

(2) The licensee shall bear the prime responsibility for ensuring the safety and security of the facility and of all activities and practices associated with it.

Regulation of nuclear facilities.

53. The Board, with the approval of the Minister, may make regulations for the following-

(a) the evaluation process for candidate sites for nuclear reactors;

(b) the application process for the construction and operation for nuclear power reactors;

(c) preconstruction review and assessment of nuclear power reactors;

(d) construction and review and assessment of nuclear power reactors;

(e) precommissioning review and assessment of nuclear power reactors;

(f) the procedures for informing and consulting members of the public, including persons residing in the vicinity of a proposed nuclear facility;

(g) the regulatory control and management of research reactors;

(h) the decommissioning of nuclear facilities;

(i) the responsibilities of the licensee in decommissioning;

(j) a system for the authorisation of persons to conduct activities or practices associated with the operation of nuclear facilities;

(k) the qualification of nuclear facility operators; and

(l) any other thing the Board considers necessary to give effect to the provision of this Part.

PART IX

EMERGENCY PREPAREDNESS AND RESPONSE

Requirement for emergency preparedness and response plans.

54. (1) An applicant for any licence under this Act shall develop an appropriate emergency preparedness and response plan to be submitted as part of the application and considered by the Board, the approval of which is a condition of the grant of the licence.

(2) Where the Board approves an emergency preparedness and response plan established by a licensee, and a radiological emergency occurs, the licensee shall implement that plan.

(3) In the preparation of emergency plans the following shall be considered-

(a) an assessment of the nature, likelihood and potential magnitude of resulting damage, including the population and territory at risk from an accident, malicious act or incident;

(b) the results of any accident analyses and any lessons learned from experience and incidents and accidents that have occurred in connection with similar activities or practices; and

(c) any other consideration the Board finds necessary.

(4)An emergency preparedness and response plan shall include-

(a) a requirement that the licensee shall immediately notify the Board of any situation or incident that could pose a risk of radiological injury requiring an emergency intervention;

(b) an allocation of responsibilities for notifying relevant emergency intervention and response organisations and for initiating intervention;

(c) an identification of conditions that could create a need for emergency intervention;

(d) intervention levels for protective actions and the scope of their application, considering the possible severity of emergencies that could occur;

(e) procedures, including communications arrangements, for contacting and obtaining assistance from emergency intervention organisations;

(f) a description of the methodology and instrumentation for assessing an emergency situation and its consequences;

(g) criteria for terminating each protective action;

(h) provisions for training of emergency responders and for conducting practical exercises, as appropriate, to test the adequacy of the plan and to ensure that all parties that may be involved in emergency interventions are adequately informed and prepared for possible emergencies; and

(i) provisions for providing prior information to members of the public who could reasonably be expected to be affected by an emergency.

(5) Emergency preparedness and response plans shall be periodically reviewed, updated and tested.

National plan for radiological or nuclear emergencies.

55. (1) The Civil Defence Commission, in consultation with the Board, shall develop a National Emergency Preparedness and Response Plan for Radiological and Nuclear Emergencies which shall be approved by the Cabinet.

(2) In developing the National Emergency Preparedness and Response Plan for Radiological and Nuclear Emergencies, the Civil Defence Commission and the Board shall coordinate with other relevant government Ministries and Agencies, Regional Authorities, members of the private sector and non-governmental organisations.

(3)The National Emergency Preparedness and Response Plan for Radiological and Nuclear Emergencies shall consider any other national policy dealing with disasters.

(4) The National Emergency Preparedness and Response Plan for Radiological and Nuclear Emergencies shall include an allocation of responsibilities and actions among relevant governmental and non-governmental bodies, including arrangements for communications and public information.

Transboundary emergencies.

56. (1) The Minister shall, where radiological or nuclear emergency poses a risk that radioactive contamination may spread beyond the boundaries of Guyana, notify the IAEA and the relevant authorities of any State which is or may be physically affected by a release that could be of radiological significance for that State.

(2) The Board shall serve as the point of contact for providing any information or assistance regarding nuclear or radiological emergencies under any international instrument that Guyana is a party to.

PART X

MINING AND PROCESSING OF RADIOACTIVE MATERIAL

Regulation of mining and processing.
Cap. 65:01

57. (1) An application to conduct mining or processing activities involving uranium or thorium ore from a site shall be made in accordance with the procedure set out in the Mining Act.

(2) The Minister responsible for mining may make regulations governing the conduct of activities relating to mining and processing operations involving materials that could pose health and safety risks from exposure to ionizing radiation, including the following-

(a) any exploration activity involving possible exposure to radiation;

(b) removal of uranium or thorium from a site for testing or evaluation, unless exempted;

(c) excavation activities at a site, including a test mine, for evaluation or delineation of the ore body;

(d) siting, construction or operation of a mine or processing facility;

(e) transport of the product of mining or milling activities;

(f) decommissioning or closure of a mine or processing facility; and

(g) radioactive waste management.

(2) The Guyana Geology and Mines Commission shall establish a system of monitoring and inspection to verify compliance with any applicable regulations made pursuant to this section.

Application for mining licences. Cap. 65:01

58. (1) In addition to any other information required under the Mining Act, an applicant for a mining licence to conduct mining or processing activities involving uranium or thorium ore from a site, shall provide information on the following-

(a) mining leases;

(b) site characteristics, including geology and mineralogy;

(c) siting or construction plans;

(d) conceptual design of the mining or processing facility;

(e) proposed work activities, extraction techniques and types of equipment involved;

(f) quantities of uranium or thorium to be removed with the ore;

(g) transport of the ore;

(h) estimates of exposures and doses to workers;

(i) measures to be taken for radiation protection;

(j) procedures for accident prevention;

(k) plans for effluent management systems and procedures;

(l) procedures for dealing with accidental releases of radioactive or nonradioactive contaminants into the environment, including mitigation of hazards;

(m) impacts on public health and safety and the environment;

(n) siting of tailings and storage facilities or stockpiles of ore and waste rock;

(o) proposed decommissioning plans, including financial arrangements for decommissioning; and

(p) security measures.

(2) Where the Guyana Geology and Mines Commission grants a licence to a person or entity to conduct mining or processing activities involving uranium or thorium ore from a site, the Commission shall inform the Board, within a reasonable time, of the particulars of the person or entity and the conditions of their licence.

Responsibility of the licensee.

59. (1) Any person or entity licenced to conduct mining or processing activities involving uranium or thorium ore from a site shall ensure the safety and security of any mining and processing activities conducted pursuant to their licence.

(2) The licensee shall notify the Guyana Geology and Mines Commission of its intention to introduce modifications to any activity or practice it is authorised to conduct, whenever the modifications could have significant implications on its safety or security and shall not implement those modifications unless authorised by the Commission.

(3)The licensee shall provide information required by the Guyana Geology and Mines Commission and the access necessary to verify compliance with any applicable law and licence conditions.

(4)The licensee shall maintain all records as required by the Guyana Geology and Mines Commission and shall make them available for inspection as required.

Power of the Board with respect to mining.

60. (1) Nothing in this Part shall prevent the Board from conducting inspections of mining sites where the purpose of the inspection is connected to the purposes of the Board under this Act.

(2) The Guyana Geology and Mines Commission shall share, upon request, any information obtained by the Commission under this Part with the Board.

PART XI

TRANSPORT AND STORAGE OF RADIOACTIVE MATERIAL

Transportation and storage of radioactive material.

61. (1) The licensee shall have the primary responsibility for ensuring the safety and security of radioactive material during its storage and transportation.

(2) The Board may, with the approval of the Minister, make regulations prescribing the requirements for the storage and transport of radioactive material to, from and within Guyana and these regulations shall include a categorisation of radioactive material that takes into account the potential hazard posed by types, quantities and activity levels of such material.

(3)The requirements adopted pursuant to this section shall consider the technical requirements of the Regulations for the Safe Transport of Radioactive Material issued by the IAEA and shall include measures for the physical protection of radioactive material, including the storage of such material, consistent with the latest guidance documents promulgated by the IAEA.

PART XII
RADIOACTIVE WASTE

Scope of radioactive waste.

62. This Act shall apply only to the management of any radioactive waste resulting from civilian applications in Guyana.

National policy and strategy.

63. The Board, in consultation with the Environmental Protection Agency and the Ministry responsible for local government, shall develop a national policy and strategy for radioactive waste management which shall be approved by the Cabinet.

General principles.

64. At all stages in the management of radioactive waste the following principles shall be applied by all persons and entities, including governmental bodies-

(a) that people and the environment are adequately protected against radiological and other hazards;

(b) that the generation of radioactive waste is kept to the minimum practicable;

(c) that the interdependence among the different steps of radioactive waste management is considered;

(d) that protective measures for radioactive waste management are implemented in a manner that reflects

internationally recognised criteria, standards and guidance, specifically those adopted by the IAEA;

(e) that biological, chemical and other hazards that may be associated with radioactive waste management are adequately addressed;

(f) that criticality and removal of residual heat generated during radioactive waste management are adequately addressed;

(g) that actions imposing reasonably predictable impacts on future generations greater than those permitted for the current generation are avoided;

(h) that undue burdens on current and future generations are avoided; and

(i) that appropriate funding arrangements are in place.

Licence to operate radioactive waste management facility.

65. No person or entity shall operate a radioactive waste management facility without a licence issued by the Board.

Regulation of radioactive waste management.

66. The Board may, in consultation with the Environmental Protection Agency and the Ministry responsible for local government, make regulations to ensure the safe and secure management of radioactive waste in Guyana and those regulations shall set out the following-

(a) the applicable safety and security requirements for the protection of people and the environment from adverse impacts of radioactive waste management activities;

(b) a system of licensing of radioactive waste management activities;

(c) a system of inspection, documentation and reporting for radioactive waste management activities, and in the case of disposal, a system of institutional control; and

(d) a system of enforcement to ensure compliance with those regulations and the terms and conditions of licences for radioactive waste management activities.

Responsibility for safety and security of radioactive waste.

67. (1) The prime responsibility for ensuring the safety and security of radioactive waste inside or outside a radioactive waste management facility throughout its life rests with the licensee.

(2) The responsibility for ensuring the safety and security of radioactive waste for which no licensee can be determined shall rest with the Board.

Disposal plan.

68. The licensee of a nuclear waste disposal facility shall prepare a plan for the closure of the facility that includes both active and passive institutional controls and the Board shall approve this plan prior to sanctioning the operation of that facility.

Prohibition on the importation of radioactive waste.

69. Radioactive waste generated outside Guyana shall not be imported into Guyana for any purpose.

Export of radioactive waste.

70. (1) Radioactive waste generated within Guyana may be exported only upon the issuance of a licence by the Board.

(2) Radioactive waste shall not be licensed for export to a destination south of latitude 60 degrees south for storage or disposal.

Criteria for the export of radioactive waste.

71. The Board shall use the following criteria in determining whether to approve an export licence-

(a) whether the importing State will be notified of the transfer of radioactive waste prior to its receipt and has consented to such transfer;

(b) whether movement of the exported material will be conducted in conformity with relevant international obligations in all States through which the material will transit; and

(c) whether the importing State possesses the administrative and technical capacity, as well as the regulatory structure, needed to manage the exported radioactive waste in a manner that ensures its safety and security, consistent with relevant internationally recognised standards, particularly those promulgated by the IAEA.

Re-import of radioactive waste.

72. If a licensed export of radioactive waste cannot be completed in conformity with this Act, the radioactive waste shall be re-imported into Guyana unless alternative safe and secure arrangements can be made.

PART XIII
SAFEGUARDS

Prohibition of nuclear weapons and other explosive devices.

73. Nuclear weapons and such other explosive devices, the direct or indirect control over the weapons or devices, the manufacture or other acquisition of the weapons or devices, and the seeking or receiving of any assistance in the manufacture of nuclear weapons or other such explosive devices, are prohibited in Guyana.

Application of Safeguards Agreement.

74. (1) To ensure compliance with the relevant commitments of Guyana under international obligations, the IAEA shall have the right to apply safeguards

as provided for in the relevant agreements between Guyana and the IAEA, and any protocols thereto.

(2) The Board shall ensure the implementation of the obligations of Guyana arising from the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean, the Treaty on the Non-Proliferation of Nuclear Weapons and the Safeguards Agreement and any protocols thereto.

(3) The Board shall-

(a) verify the implementation of the obligations of Guyana arising from the instruments referred to in subsection (2);

(b) collect and provide to the IAEA the information required to fully implement the safeguards agreement and any protocols thereto;

(c) facilitate access by IAEA inspectors to locations within Guyana; and

(d) coordinate with the Ministry responsible for foreign affairs in connection with the provision of information to the IAEA in connection with the Safeguards Agreement and any protocols thereto.

Cooperation in the application of safeguards.

75. Public bodies and licensed persons and entities shall cooperate fully with the IAEA in the application of safeguards measures, including by-

(a) promptly providing all necessary information under the Safeguards Agreement and any protocols thereto;

(b) providing access to locations as required by the Safeguards Agreement and any protocols thereto;

(c) providing support to inspectors and IAEA inspectors in the performance of their tasks; and

(d) rendering to inspectors and IAEA inspectors all necessary services in connection with their inspections.

Safeguards inspections.

76. (1) Duly authorised representatives of the Board and designated inspectors of the IAEA shall have access to any location or facility as provided for under the Safeguards Agreement and any protocols thereto, with a view to conducting the verification activities authorised by these instruments.

(2) Any person performing activities subject to the Safeguards Agreement and any protocols thereto shall allow the Board and duly designated inspectors of the IAEA to carry out any measures the Board or the IAEA, respectively, considers necessary or appropriate for achieving compliance with the undertakings of Guyana arising from such instruments.

Designation of IAEA inspectors and issuance of visas.

77. (1) The Ministry responsible for foreign affairs shall be responsible for approving the designation to Guyana of inspectors proposed by the IAEA.

(2) The Ministry responsible for foreign affairs shall issue any necessary permission, including visas, where required, in an expedited manner, to enable designated inspectors of the IAEA to Guyana to enter and remain in Guyana for the purpose of carrying out their safeguards functions in accordance with the Safeguards Agreement and any protocols thereto.

State System of Accounting for and Control of Nuclear Material.

78. The Board shall ensure the effective implementation of safeguards in Guyana by establishing and implementing-

(a) a system for the measurement of nuclear material;

(b) a system for the evaluation of measurement accuracy;

(c) procedures for reviewing measurement differences;

(d) procedures for carrying out physical inventories;

(e) a system for evaluation of unmeasured inventories;

(f) a system of records and reports for tracking nuclear material inventories and flows;

(g) procedures for ensuring that accounting procedures and arrangements are being operated correctly; and

(h) procedures for reporting to the IAEA.

Responsibility of licensees.

79. Every person or entity licensed to possess, use, handle or process nuclear material subject to the Safeguards Agreement and any protocol thereto shall-

(a) maintain records as prescribed by the Board;

(b) submit the prescribed reports to the Board in the form, and at the times, specified by the Board;

(c) perform the measurements of nuclear material and maintain required measurement control programmes, as specified by Board;

(d) provide the Board with information regarding the design of any nuclear facility, including any design changes, as specified by Board;

(e) conduct physical inventories of nuclear material, as specified by the Board;

(f) give notice to the Board of the import or export of nuclear material, as specified by the Board;

(g) maintain physical protection and other security measures with respect to nuclear material, as specified by Board;

(h) without delay, report to the Board any loss of nuclear material in excess of limits prescribed by Board;

(i) provide reports on planned future activities, as specified by the Board; and

(j) allow authorised representatives of the Board and designated officials of the IAEA to carry out, without

hindrance, inspections at any facility or other location as provided for under this Act, the Safeguards Agreement or any protocol thereto.

PART XIV
EXPORT AND IMPORT OF CONTROLS

Objectives of export and import controls.

80. Controls over the export and import of radioactive material or nuclear material, or an ionizing radiation apparatus to and from Guyana shall be conducted to advance the following objectives-

(a) to protect the public and the environment and to ensure the security and economic interests of Guyana;
(b) to meet the obligations of Guyana under relevant international instruments entered into by Guyana;
(c) to support international cooperation in the safe and peaceful uses of nuclear energy; and
(d) to support international efforts to prevent the proliferation of nuclear weapons and explosive devices or radiological dispersal devices.

Prohibition of unauthorised transfers.

81. The export from or import into Guyana of a controlled good without a licence is prohibited and any person who contravenes this section commits an offence and is liable on summary conviction to a fine not less than five million dollars nor more than fifteen million dollars or to imprisonment for a term not exceeding five years.

Authority to control nuclear exports and imports.

82. The Board shall implement the necessary measures, including a system of licences, to control the export and import of controlled goods.

Licensing for exports and imports.

83. The Board may, with the approval of the Minister, make regulations setting out the details of the licensing process for exports and imports of controlled goods, including-

(a) the procedures for applying for a licence, including schedules for reviewing and deciding on applications;

(b) a list of goods requiring a licence;

(c) provision for periodic revision or updating of lists of controlled goods to reflect developments in technology or changes in relevant circumstances;

(d) criteria for the evaluation of an application and issuance of a licence;

(e) end user controls;

(f) requirements for notification prior to shipment of exports where that notification has been determined to be necessary;

(g) a schedule of fees or charges for granting licences;

(h) provisions for trans-shipment of goods otherwise not requiring an export licence;

(i) requirements for records to be kept regarding authorised activities; and

(j) protection of confidential information relating to authorised activities.

Export licensing criteria.

84. The criteria for the granting of a licence to export goods identified by the Board as being subject to control shall include the following-

(a) that the receiving State has made a binding commitment to use the transferred goods for peaceful purposes only;

(b) that IAEA safeguards will be applied to the transferred goods;

(c) that the receiving State has placed all its nuclear material and nuclear facilities under international safeguards;

(d) that retransfer of exported goods to a third State is subject to a right of prior approval by Guyana;

(e) that any reprocessing of supplied nuclear material, or nuclear material product, processed or used in or by the use of exported good is subject to a right of prior approval by Guyana;

(f) that levels of physical protection that will apply to the exported material will be consistent with those set forth in the Convention on the Physical Protection of Nuclear Material;

(g) that the applicant has provided information on the end use and end user of the goods to be transferred that confirms the legitimate peaceful and safe use of the goods;

(h) that, for spent nuclear fuel or nuclear waste, Guyana has received prior notification and has consented to the transfer;

(i) that, for spent nuclear fuel or nuclear waste, Guyana shall have demonstrated the administrative and technical capability and regulatory structure necessary to manage the material in a safe and secure manner; and

(j) that nuclear material will not be transferred to geographical areas where the nuclear materials may not be transferred under the terms of international instruments adopted by Guyana.

Import licensing criteria.

85. The criteria for the granting of a licence to import goods identified by the Board as being subject to control shall include the following-

(a) that the import of the goods is not otherwise prohibited by the laws of Guyana;

(b) that the designated recipient of any imported goods, subject to licensing, has been granted the appropriate licence consistent with the applicable laws and regulatory requirements in Guyana; and

(c) that the end user of the imported goods has the demonstrated technical and administrative capability and resources to use the imported goods in a safe and secure manner.

PART XV

PHYSICAL PROTECTION AND ILLICIT TRAFFICKING

Regulation of physical protection.

86. The Board may, by regulations, establish requirements for the physical protection of nuclear and other radioactive material, including-

(a) a categorisation of radioactive material and nuclear material based on an assessment of the damage that could result from theft or diversion of a certain type and quantity of material from authorised uses, or from sabotage of a facility in which nuclear and other radioactive material is produced, processed, used, handled, stored or disposed of;

(b) protection measures necessary for different categories of material;

(c) accounting and control measures for nuclear and other radioactive material;

(d) licensing requirements and procedures that include licence conditions for physical protection;

(e) inspection and monitoring measures to verify compliance with applicable physical protection requirements; and

(f) enforcement measures in case of non-compliance with those regulations.

Physical protection - responsibilities of the licensee.

87.(1) A person or entity licensed to conduct activities or practices utilising radioactive material or nuclear material is primarily responsible for ensuring the physical protection of such material and related facilities pursuant to any law and licence conditions.

(2) In addition to the obligation to report to the Board under section 79(h), where there has been a theft, threat of theft or loss of nuclear or other radioactive material, the licensee shall-

(a) notify the Board without delay of the incident and circumstances thereof;

(b) provide a written report, including particulars, to the Board as soon as practicable after providing notice; and

(c) provide the Board with any additional information requested.

International cooperation and assistance.

88.(1) In the event of theft, robbery or unlawful taking, or credible threat of unlawful taking, of radioactive material or nuclear material, the Board shall take appropriate steps, as soon as practicable, to inform other States or international organisations that may be affected of the circumstances of the incident.

(2) The Board shall be the central authority responsible for physical protection of nuclear material and for coordinating recovery and response in the event of any theft or unlawful taking of radioactive material or nuclear material.

(3) In the event of theft or any other unlawful taking of radioactive material or nuclear material, the Board shall be responsible for determining the necessary cooperation and assistance arrangements in the recovery and protection of such material to be agreed with any State or international organisation that so requests.

(4) The Board shall provide information on incidents involving the theft, robbery or any other unlawful taking of nuclear or other radioactive material, equipment and technology, to the IAEA under arrangements established by that Agency.

Protection of confidential information.

89. (1) No person shall disclose confidential information, including any such information that is acquired pursuant to the provisions of the Convention on the Physical Protection of Nuclear Material.

(2) Any person who discloses confidential information commits an offence and is liable on summary conviction to a fine of not less than five hundred thousand dollars nor more than two million dollars or imprisonment for six months.

Communication prejudicing security.

90. (1) Any person who communicates information to any person, knowing that the communication could prejudice the physical security of radioactive material or nuclear material, or an associated item, commits an offence.

(2) Subsection (1) shall not apply if the communication is authorised by a person who has been granted a permit to possess the radioactive material or nuclear material or associated item.

PART XVI
ENFORCEMENT AND PENALTIES

Enforcement action.

91. (1) Where a licensed person or entity is found to be in non-compliance with this Act, including any subsidiary legislation made under the Act, or the terms and conditions of the licence, the Board shall take the necessary enforcement action commensurate with the seriousness of the non-compliance or violation.

(2) In all cases, the person or entity subject to enforcement action shall take the necessary measures to remedy the non-compliance as soon as possible, as required by the Board, and take the necessary measures to prevent a recurrence.

(3) For cases involving non-compliance that is of minor safety or security significance, the Board may issue a warning, in writing, and determine the period during which remedial action shall be taken.

Penalties.

92. (1) Any person who contravenes any of the provisions of this Act for which no penalty is specifically provided is liable on summary conviction-

(a) in the case of an individual, to a fine of not less than one million dollars nor more than ten million dollars or imprisonment for a term not exceeding three years; or

(b) in the case of a body corporate, to a fine of not less than five million dollars nor more than twenty million dollars.

(2) Where a person is convicted of an offence under this Act or the regulations, then, if the contravention in respect of which the person was convicted is continued after the person was convicted the person 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.

(3) 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 sum of any fine that may otherwise be imposed under this Act or the regulations, an additional fine in a sum equal to the court's estimation of the sum of those monetary benefits.

Offences by body corporate.

93. (1) Where any offence in this Act is committed by a body corporate and is proved to have been committed with the consent or the connivance of, or to have been attributable to neglect on the part of a director, manager, secretary or other officer or agent of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the body corporate, shall be guilty of that offence and liable to the same penalty.

(2) Where a body corporate or its director, manager, secretary, agent or any other officer concerned with the management of the body corporate has been convicted of an offence under this Act, the court shall have the power, in addition to the power to impose the penalties prescribed for the stated offence to-

(a) revoke any licence issued to the body corporate pursuant to this Act; or

(b) forfeit all property to the State, including money, valuables and other movable and immovable property, of a person convicted of an offence under this Act that was used or intended to be used, or was obtained in the course of the crime, or as part of benefits gained from the crime.

Administrative penalties.

94. Where the Board has determined that a person or entity has failed to comply with the provisions of this Act, any subsidiary legislation made under this Act or terms and conditions of a licence, it may impose an administrative fine in any amount not exceeding five hundred thousand dollars.

Appeals from decision of the Board.
Cap. 3:06

95. Any person who is aggrieved with a decision of the Board may apply to the High Court for judicial review in accordance with the Judicial Review Act.

PART XVII
MISCELLANEOUS

Regulations.

96. The Minister may make regulations to give effect to the provisions and purposes of this Act.

Minister may amend monetary penalties by order.

97. After consulting with the Board, the Minister, may, by order, amend the monetary penalties prescribed in this Act.

Transitional provisions.

98. (1) As from the commencement date, the provisions of this Act shall apply to all pending applications for licences.

(2) Any licence granted prior to the commencement date in respect to any activity or practice shall continue to be valid, except that the licence shall

expire, at the latest, ninety days after the commencement date, if it has not then expired.

(3) Any person engaging in an activity or practice on the commencement date shall apply for a licence as required in this Act within ninety days after the commencement date, or such longer period as the Board may, in writing, allow.

(4) The Board may, in writing, vary or revoke any licence issued prior to the commencement date to the extent that the licence is inconsistent with the terms of this Act.

Conflict with other laws.

99. Where there is any inconsistency between the provisions of this Act and the operation of any other written law other than the Constitution, the provisions of this law shall prevail.

SCHEDULE s.7

MEETINGS AND PROCEDURE OF THE BOARD AND RELATED MATTERS

Meetings of the Board.

1. The Board shall meet at such times as may be necessary or expedient for the transaction of business and the meetings shall be held at such places and times and on such days as the Board may determine.

Special meeting of the Board.

2. The Chairperson may, at any time, call a special meeting of the Board and shall call a special meeting within seven days of the receipt of a written request for the purpose addressed by any two members of the Board.

Chairperson to preside at meetings of the Board.

3. (1) The Chairperson, or in the case of absence or inability to act, the Deputy Chairperson shall preside at meetings of the Board.

(2) In the case of the Chairperson and Deputy Chairperson being absent from or unable to act at any meeting, members of the Board present and constituting a quorum shall elect one of the members of the Board to act as the Chairperson and preside at that meeting.

Decision of the Board.

4. (1) Subject to paragraph 5, each member of the Board present at a meeting of the Board has one vote on any question arising for decision.

(2) In any case in which the voting is equal, the Chairperson, Deputy Chairperson or other member presiding at the meeting shall exercise the casting vote.

Quorum.

5. The quorum for a meeting of the Board shall be four members.

Minutes of the meetings.

6. The minutes in proper form of each meeting of the Board shall be kept by the Secretary and shall be confirmed by the Chairperson, Deputy Chairperson or

any other member presiding at the meeting, as the case may be, as soon as practicable at a subsequent meeting.

Seal of the Board.

7. (1) The seal of the Board shall be kept in the custody of the Chairperson or the Secretary of the Board, and shall be authenticated by the signatures of the Chairperson, Deputy Chairperson, or any other member of the Board authorised to act in that behalf, and the Secretary of the Board.

(2) All documents other than those required by law to be under seal, made by, and all decisions of the Board may be signified under the hand of the Chairperson, Deputy Chairperson, or any other member authorised to act in this behalf or the Secretary of the Board.

Proceedings of the Board.

8. (1) Subject to the provisions of this Schedule, the Board may regulate its own proceedings and business and may make rules for that purpose.

(2) The validity of any proceedings of the Board shall not be affected by any vacancy among the members of the Board or by any defect in the appointment of a member of the Board.

Passed by the National Assembly on the 20th July, 2023.

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

(BILL No. 8/2022)