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THE OFFICIAL GAZETTE 15TH DECEMBER, 2021
LEGAL SUPPLEMENT — C

BILL No. 21 of 2021 *Wednesday 15th December, 2021*

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

15th December, 2021.

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

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

GUYANA

BILL No. 21 of 2021

LOCAL CONTENT BILL 2021

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A Bill

Intituled

AN ACT to provide for the implementation of local content obligations on persons engaged in petroleum operations or related activities in the petroleum sector; to prioritise Guyanese nationals and Guyanese companies in the procurement of goods and services for the enhancement of the value chain of the petroleum sector; to enable local capacity development; to provide for the investigation, supervision, co-ordination, monitoring and evaluation of, and participation in, local content in Guyana; to promote competitiveness and encourage the creation of related industries that will sustain the social and economic development of Guyana; and for other related matters.

A.D. 2021 Enacted by the Parliament of Guyana: -

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Local Content Act 2021.

Interpretation.

2. In this Act –

"Committee" means the Inter-Agency Advisory Committee established by section 20;

"Contractor" includes any person who enters into a Petroleum Agreement with the Minister in accordance with section 10 of the Petroleum (Exploration and Production) Act; Cap. 65:04

Cap. 89:01

"Guyanese company" means any company incorporated under the Companies Act –

(a) which is beneficially owned by Guyanese nationals who ultimately exercise, individually or jointly, voting rights representing at least fifty-one per cent of the total issued shares of the company; and

(b) that has Guyanese nationals holding at least seventy-five percent of executive and senior management positions and at least ninety percent of non-managerial and other positions;

"Guyanese national" means a citizen of Guyana;

"Master Services Agreement" means a contract that facilitates an ongoing relationship between a service provider and a Contractor, Sub-contractor or Licensee by detailing each party's ongoing duties and obligations in relation to their petroleum operations;

Cap 65:04

"Licensee" means the holder of a licence granted under the Petroleum (Exploration and Production) Act;

"local capacity development" includes increasing the number, competencies, and capabilities of Guyanese nationals or Guyanese companies participating in the petroleum sector;

"local content" means the monetary value of inputs from the supply of goods, or the provision of services, by Guyanese nationals or Guyanese companies and includes local capacity development;

"Local Content Annual Plan" means the annual local content plan submitted to the Minister for approval in accordance with section 10;

"Local Content Master Plan" means a five-year local content plan submitted to the Minister for approval in accordance with section 9 but does not include a Local Content Annual Plan;

"Local Content Plan" means Local Content Master Plan or Local Content Annual Plan;

"Minister" means the Minister with responsibility for petroleum;

"petroleum operations" include operations carried out for, or in connection with, the prospecting for, or production of, petroleum;

"Secretariat" means the Local Content Secretariat established under section 6;

"Sub-Contractor" includes any person with whom a Contractor or Licensee has entered into an agreement for the provision of goods and services within the

Contractor's or Licensee's supply chain management as outlined in the guidelines established by the Secretariat;

"supply chain management" includes all stages involved in the procurement of goods and services for use in petroleum operations;

"total expenditure" means the aggregate of all expenditure for petroleum operations and activities for Guyana.

PART II
GENERAL PROVISIONS

Application.

3. (1) This Act applies to local content in relation to all operations and activities in the petroleum sector for Guyana.

(2) Every Contractor, Sub-Contractor or Licensee shall implement local content as an essential component of their petroleum operations.

Duties of Minister.

4. The duties of the Minister shall include -

(a) the approval or refusal, after consultation with the Secretariat, of a Local Content Master Plan and a Local Content Annual Plan, or modifications to an approved Local Content Master Plan or Local Content Annual Plan;

(b) prescribing the rules on local content measurement and certification;

(c) prescribing the metrics to be applied in determining the achievement of minimum local content levels;

(d) establishing and collaborating with multi-stakeholders on local content;

(e) the consideration of local content plans prior to approving the grant or transfer of interest in a licence or entering into a petroleum agreement in accordance with the Petroleum (Exploration and Production) Act;

Cap. 65:04

(f) after consultation with the Secretariat, set priority areas of focus and minimum targets for local content implementation; and

(g) report to the National Assembly on local content implementation.

The Local Content Secretariat.

5. (1) There is established a unit, within the Ministry responsible for petroleum, to be known as the Local Content Secretariat.

(2) The Secretariat shall consist of a Director and such other members as may be appointed by the Minister from amongst persons who are qualified for appointment to the Secretariat by reason of their integrity, and experience, professional capacity and requisite qualification relating to the work of the Secretariat.

(3) The Minister may employ such persons as are necessary for the purpose of carrying out the functions of the Secretariat at a remuneration and on such terms and conditions as the Minister shall determine.

(4) The functions of the Secretariat shall include –

(a) developing and maintaining measures for the effective implementation of local content by Contractors, Sub-Contractors and Licensees;

(b) developing and implementing strategies that will give preference to, or ensure equal treatment of, Guyanese nationals and Guyanese companies;

(c) conducting market analysis;

(d) making recommendations to the Minister;

(e) developing formats for local content plans and reporting;

(f) developing guidelines including guidelines for local content reporting, procurement, bid evaluation, training, research and development, partnership and joint ventures, and financial and insurance services;

(g) developing and maintaining a Local Content Register of qualified Guyanese nationals and Guyanese companies;

(h) recommending for approval or refusal, Local Content Master Plans and Local Content Annual Plans and proposals for modifications to Local Content Master Plans and Local Content Annual Plans;

(i) developing auditing procedures and conducting regular audits for the purposes of monitoring and ensuring compliance with this Act;

(j) measuring and reporting on the local content performance of Contractors, Sub-Contractors or Licensees;

(k) undertaking public education and awareness campaigns; and

(l) reporting to the Minister on the performance of the Secretariat's functions and the general administration of this Act.

(5) The Minister may give policy orders and general directions to the Secretariat in relation to the exercise of the functions of the Secretariat.

Local Content Register.

6. (1) The Secretariat shall develop and maintain Local Content Registers of –

(a) Guyanese nationals for employment; and

(b) Guyanese nationals and Guyanese companies from which goods and services may be procured.

(2) A Guyanese national and Guyanese companies may apply for and be issued with a certificate of registration in a manner and form prescribed by the Secretariat:

Provided that Guyanese nationals and Guyanese companies supplying goods or providing services to the petroleum sector immediately before the coming into operation of this Act, shall apply for and be issued with a certificate of registration within six months of the coming into operation of this Act.

(3) A certificate of registration shall be an annual certificate which shall become renewable on the anniversary date of the issuance of the certificate.

(4) An application for the renewal of a certificate of registration shall be made to the Secretariat in a manner and form prescribed by the Secretariat.

(5) Upon being issued a certificate of registration under subsection (2), the qualified Guyanese nationals and Guyanese companies shall be added to a Local Content Register.

(6) A Guyanese national or a Guyanese company shall immediately notify the Secretariat where there has been a change in the status of citizenship of the national or a change in the composition of the company in contravention of the definition prescribed by section 2.

(7) A person who fails to notify the Secretariat in accordance with subsection (6) commits an offence and shall be liable on summary conviction to –

(a) a fine of –

(i) in the case of an individual, one million dollars; and

(ii) in the case of a body corporate, five million dollars; and

(b) be struck off the Local Content Register.

(8) A Guyanese national or Guyanese company who is not registered on the Local Content Register shall not be measured for the purpose of compliance with the minimum local content levels as set out in the First Schedule.

First Schedule.

Minimum local content levels.

7. (1) A Contractor, Sub-contractor or Licensee shall comply with the minimum local content levels set out in the First Schedule to be implemented in the carrying out of any petroleum operation.

First Schedule.

(2) The Minister may, by Order subject to negative resolution of the National assembly, amend the minimum local content levels set out in the First Schedule.

(3) The Minister may waive the requirement set out in subsection (1) where –

(a) the Minister, after consultation with the Secretariat, deems any petroleum operation to be of national interest;

(b) a Contractor, Sub-contractor or Licensee is unable to comply with the minimum local content level in the performance of any petroleum operation due to the lack of current Guyanese capacity; or

(c) compliance with a Master Service Agreement executed by a Contractor, Sub-Contractor or Licensee which is still in force immediately before the coming into operation of this Act prevents the Contractor, Sub-Contractor or Licensee from complying with the minimum local content levels set out in the First Schedule.

PART III
LOCAL CONTENT PLANS AND REPORT

Submission of Local Content Master Plan.

8. (1) A Contractor or Licensee shall submit a Local Content Master Plan to the Minister for approval –

(a) within four months of the coming into operation of this Act; or

(b) within four months of -

(i) the grant of a licence;

(ii) the grant of a transfer of interest in a licence; or

(iii) entering into a petroleum agreement with the Minister to conduct petroleum operations,

Cap. 65:04

in accordance with the Petroleum (Exploration and Production) Act.

(2) A Sub-Contractor shall submit to the Minister a Local Content Master Plan, within four months of entering an agreement with a Contractor, Sub-Contractor or Licensee for the term of the agreement:

Provided that every Sub-Contractor existing immediately before the coming into operation of this Act, shall submit a Local Content Master Plan to the Minister for approval within four months after the coming into operation of this Act.

(3) The Minister shall lodge the Local Content Master Plan with the Secretariat.

(4) A Contractor, Sub-Contractor or Licensee may submit a modified Local Content Master Plan to the Minister for approval where, after a Local Content Master Plan is approved, a change in circumstances takes place which was unavoidable and unforeseen at the time of submitting the Local Content Master Plan.

(5) The Minister, after consultation with the Secretariat, shall review and approve a modified Local Content Master Plan in accordance with section 11.

(6) The Secretariat shall develop guidelines for the purposes of subsection (4) which shall specify the circumstances and other related matters for the effective carrying out of that provision.

(7) A Local Content Master Plan shall be updated by the Contractor, Sub-Contractor or Licensee every five years.

Content of Local Content Master Plan.

9. (1) Every Local Content Master Plan shall include-

(a) an Employment Sub-Plan;

(b) a Procurement Sub-Plan;

(c) a Capacity Development Sub-Plan;

(d) the quality criteria and quantity criteria required for the supply of goods, and the provision of services; and

(e) a statement on, and an estimate of, the value of local content to be acquired, delivered and rendered for Guyana.

Second Schedule.

(2) The local content sub-plans required to be submitted in accordance with subsection (1)(a), (b) and (c) shall include the information set out in the Second Schedule.

Submission of Annual Local Content Plan.

10. (1) A Contractor, Sub-Contractor or Licensee shall submit a Local Content Annual Plan to the Minister for approval:

Provided that a Contractor, Sub-Contractor or Licensee existing immediately before the coming into operation of this Act, shall submit a Local Content Annual Plan to the Minister for approval within sixty days after the coming into operation of this Act.

(2) Subject to subsection (4), the Contractor, Sub-Contractor or Licensee shall implement the approved Annual Local Content Plan.

(3) A Local Content Annual Plan shall include an annual programme with respect to the matters identified in section 9.

(4) The provisions of section 8(4), (5) and (6) shall apply *mutatis mutandis* to a Local Content Annual Plan as they apply to a Local Content Master Plan.

(5) A Local Content Annual Plan shall be submitted within sixty days prior to, but no later than thirty days after, the beginning of each calendar year.

Review of Local Content Plan.

11. (1) The Minister and the Secretariat shall review and assess a Local Content Plan.

(2) The Minister shall not refuse a Local Content Plan without first notifying a Contractor, Sub-Contractor or Licensee in writing of the intention to refuse the Local Content Plan.

(3) The notice of intention to refuse a Local Content Plan shall include–

(a) the grounds for the intended refusal; and

(b) a specified period within which the Contractor, Sub-Contractor or Licensee may make representation in respect of the grounds stated or propose modifications to the Local Content Plan.

(4) Subject to subsection (3), the Secretariat shall inform the Contractor, Sub-Contractor or Licensee in writing of the Minister's decision to approve or

refuse a Local Content Plan within forty-five days from the date of receipt of the Local Content Plan.

(5) The Secretariat shall cause to be published an approved extract of a Local Content Plan on the website of the Ministry responsible for petroleum or on any other media of wide circulation and that publication shall not include any confidential or proprietary information.

(6) The Minister and the Secretariat may, at any time, review a Local Content Plan.

Local content report.

12. A Contractor, Sub-Contractor or Licensee shall provide a local content report to the Secretariat, within thirty days after the end of each half calendar year, outlining its compliance with the approved minimum local content levels.

Bid evaluation.

13. (1) A Contractor, Sub-Contractor or Licensee shall incorporate local content as part of the Contractor's, Sub-Contractor's or Licensee's bid evaluation criteria.

(2) A Contractor, Sub-Contractor or Licensee shall notify the Secretariat in writing of a proposed contract or a purchase order –

(a) where any proposed contract or any purchase order is to be sole sourced and relates to petroleum operations;

(b) where any proposed contract or any purchase order is to be sourced through a competitive bidding process and is in excess of the value prescribed by the Minister by Order for this purpose.

(3) A Contractor, Sub-Contractor or Licensee shall award a contract on the basis of a competitive bidding procurement procedure that has been initiated by a widely circulated public tender process:

Provided that the procurement method of sole sourcing shall only be utilised with the approval of the Minister after consultation with the Secretariat.

(4) Local content shall be evaluated in accordance with the bid evaluation guidelines developed by the Secretariat.

(5) Where two or more bids are adjudged to be equal or, two or more bids are within five percent of each other when financially evaluated but is otherwise adjudged to be equal, the bid containing the highest level of local content shall be selected.

(6) A Contractor, Sub-Contractor or Licensee shall conduct half yearly workshops to educate Guyanese nationals and Guyanese companies about the procurement process, qualification criteria, bid evaluation criteria, performance standards and lessons learnt from previous bidding processes.

Master Services Agreement.

14. A Contractor, Sub-Contractor or Licensee shall submit all Master Services Agreements executed by the Contractor, Sub-contractor or Licensee to the Secretariat for review within thirty days of the execution of the Master Services Agreement:

Provided that all Master Services Agreements executed by a Contractor, Sub-Contractor or Licensee and still in force immediately before the

coming into operation of this Act shall be submitted to the Secretariat for review within thirty days of the coming into operation of this Act.

Knowledge, skills and technology transfer.

15. (1) The Secretariat shall develop and implement strategies to promote local capacity development to bridge any knowledge and skills gap in the petroleum sector.

(2) Pursuant to subsection (1), the Secretariat shall liaise with the academic sector, relevant Ministries, Government Agencies and any other relevant stakeholder in the review and reform of the local training curricula, equipment, and facilities to ensure, as applicable, the purposes of this Act are met.

(3) A Contractor, Sub-Contractor or Licensee shall support and facilitate local capacity development in accordance with the strategies identified by the Secretariat.

PART IV
MONITORING, EVALUATION AND REPORTING

Local Content monitoring.

16. (1) The Secretariat shall monitor and evaluate the petroleum operations of a Contractor, Sub-Contractor or Licensee, for the purpose of carrying out the provisions of this Act.

(2) Pursuant to subsection (1), the Secretariat may develop the appropriate auditing procedures and establish local content reporting guidelines.

(3) A Contractor, Sub-Contractor or Licensee shall maintain, in Guyana, all data on local content in the manner and form as may be prescribed by the Secretariat.

(4) The Secretariat may, at any time, review any data on local content kept by a Contractor, Sub-Contractor or Licensee in accordance with this Act.

Performance reports and local content certification.

17. (1) A Contractor, Sub-Contractor or Licensee shall, within forty-five days of the commencement of a calendar year, submit to the Secretariat, a performance report of local content activities undertaken by the Contractor, Sub-Contractor or Licensee for the previous calendar year.

(2) The Secretariat shall prescribe the manner and form of the report in accordance with reporting guidelines developed by the Secretariat.

(3) The Secretariat shall, within forty-five days after the receipt of the performance report, review and assess the report to ensure compliance with this Act.

(4) Subject to subsection (3), the Secretariat shall issue a certificate of compliance or non-compliance.

Impact assessment report.

18. (1) The Secretariat shall prepare and submit to the Minister a report detailing and evaluating the local content activities and achievements or the lack thereof of Contractors, Sub-Contractors or Licensees under this Act.

(2) The report submitted under subsection (1) shall include -

(a) each Contractor's or Licensee's petroleum operations;
(b) each Sub-Contractor's activities in relation to the Contractor's, Sub-Contractor's or Licensee's supply chain management;
(c) any objectives that are yet to be attained by the Contractor, Sub-Contractor or Licensee under this Act, and the reasons provided by the Contractor, Sub-Contractor or Licensee for the delay in attaining those objectives;
(d) remedial strategies to ensure the implementation of the objectives that are yet to be attained;
(e) recommendations of best practices for greater efficiency and effectiveness in the attainment of the purposes of this Act; and
(f) any other information the Minister may require the Secretariat to include in the report.

(3) After receiving the report of the Secretariat, the Minister shall cause a report to be submitted to the National Assembly.

Access to facilities by authorised officers.

19. A Contractor, Sub-Contractor or Licensee shall allow the Secretariat, or a representative of the Secretariat, unrestricted access to the Contractor's, Sub-Contractor's or Licensee's facilities, records, reports, documents, data and information for the purposes of monitoring, assessing, evaluating, investigating, auditing and verifying compliance with this Act.

PART V

INTER-AGENCY COMMITTEE

Establishment of Inter-Agency Advisory Committee.

20. (1) There is established a committee to be known as the Inter-Agency Advisory Committee.

(2) The Committee shall consist of not less than seven members appointed by the President.

(3) The members appointed to the Committee shall be selected from the following agencies-

(a) Office of the President;
(b) Ministry of Natural Resources;
(c) Ministry of Finance;
(d) Ministry of Home Affairs;
(e) Ministry of Labour;
(f) Guyana National Bureau of Standards;
(g) Guyana Revenue Authority;
(h) Attorney General's Chambers and Ministry of Legal Affairs;
(i) Guyana Office for Investment;
(j) Ministry of Foreign Affairs and International Cooperation;
(k) Ministry of Tourism, Industry and Commerce,
(l) Ministry of Education;
(m) Ministry of Public Works;
(n) Private Sector Commission; and
(o) Labour Union Representative.

(4) The President shall appoint a Chairperson and a Vice Chairperson of the Committee from amongst the members of the Committee.

(5) The members of the Committee shall be appointed for a term of one year which term may be renewed by the President.

(6) Five members of the Committee shall constitute a quorum.

(7) The function of the Committee is to support the Secretariat in the discharge of its functions in an advisory capacity.

(8) The Committee may determine its own procedure for discharging its functions.

(9) The President may remove a member of the Committee for –

(a) incompetence;

(b) misbehaviour or misconduct;

(c) inability to perform the functions of the member's office arising from infirmity of body or mind;

(d) being conviction of any offence;

(e) bankruptcy or insolvency; and

(f) noncompliance with subsection (10).

(10) Any member of the Committee who has any interest, directly or indirectly, in any matter before the Committee –

(b) shall disclose the nature of the interest to the Committee; and

(c) shall not take part in any deliberation or decisions of the Committee with respect to that matter.

(11) A disclosure made under subsection (10) shall be recorded in the minutes of the Committee meeting.

PART VI
MISCELLANEOUS

Investigations.

21. The Secretariat may initiate an investigation into any petroleum operation of a Contractor, Sub-Contractor or Licensee for the purpose of ensuring compliance with this Act.

Obligation for secrecy and confidentiality.

22. (1) Any information submitted to the Minister or the Secretariat which is not required to be published in accordance with this Act shall be regarded and dealt with as secret and confidential.

(2) Any statement given, or any information, document or thing provided for the purposes of an investigation or which may be required under law or in any legal proceedings shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.

(3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one million dollars.

Offences and penalties.

23. (1) A person who submits, or causes to be submitted, a local content plan, report, record, or any other information pursuant to this Act and the person knows, or ought reasonably to know, that the submission is false or misleading, commits an offence and is liable on summary conviction –

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

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

(2) A Guyanese national or Guyanese company who aids or abets anyone to contravene any provision of this Act in order to defeat the local content obligations under this Act commits an offence and is liable on summary conviction –

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

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

(3) A person who –

(a) submits or causes to be submitted, any information for the issuance of a certificate of qualification knowing, or ought reasonably to know, that the information is false or misleading, commits an offence and is liable on summary conviction to a fine of ten million dollars;

(b) carries out petroleum operations without the minimum local content requirement commits an offence and is liable on summary conviction to a fine of fifty million dollars;

(c) fails to submit a local content plan, return, report, record, or any other document pursuant to the provisions of this Act commits an offence and is liable on summary conviction to a fine of five million dollars;

(d) submits beyond the prescribed time a local content plan, return, report, record, or any other document pursuant to the provisions of this Act commits an offence and is liable on summary conviction to a fine of one million dollars;

(e) fails to satisfy the prescribed content requirement of an approved local content plan commits an offence and is liable on summary conviction to a fine of ten million dollars;

(f) fails to submit a performance report, commits an offence and is liable on summary conviction to a fine of one million dollars;

(g) fails to comply with a request by the Minister or the Secretariat to review, or provide information on, any return, report, record, or any other document pursuant to the provisions of this Act commits an offence and is liable on summary conviction to a one million dollars.

Offence committed by body corporate.

24. Where an offence has been 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 any neglect on the part of a director, manager, secretary or any other officer or agent of the body corporate, or any person who was purporting to act in such capacity, that person, as well as the body corporate, shall be guilty of that offence and liable to be same penalty.

Power to make Regulations.

25. The Minister may make regulations for carrying out the purposes of this Act.

Amendment of monetary penalties.

26. The Minister may, by Order subject to affirmative resolution of the National Assembly, amend the monetary penalties specified in this Act.

FIRST SCHEDULE

Sections 6(8), 7 (1) & (2)

MINIMUM LOCAL CONTENT LEVELS

A Contractor, Sub-Contractor or Licensee must comply with the following targets for the respective sectors to ensure –

a. maximum participation of Guyanese nationals and Guyanese companies supplying goods or providing services in the Guyanese petroleum sector; and
b. local capacity development.

PART 1 – SPECIFIC SECTORS FOR GUYANESE COMPANIES AND GUYANESE NATIONALS

Sectors and Sub-sector for Guyanese Businesses	End of 2022
1. Rental of Office Space	90%
2. Accommodation Services (apartments and houses)	90%
3. Equipment Rental (crane and other heavy-duty machinery)	50%
4. Surveying	75%
5. Pipe Welding – onshore	25%
6. Pipe Sand Blasting and Coating – onshore	30%
7. Construction Work for Buildings – onshore	50%
8. Structural Fabrication (cutting, bending, and assembling of steel products) – onshore	30%
9. Waste Management (disposal, and waste transport services) – Non-hazardous Waste	75%
10. Waste Management (disposal, and waste transport services) – Hazardous waste	25%
11. Storage Services (warehousing)	60%
12. Janitorial and Laundry Services	90%
13. Catering Services	90%
14. Food Supply	75%
15. Administrative Support and Facilities Management Services	75%
16. Immigration Support Services	100%
17. Work Permit, Visa Applications, Visa on Arrival, and In-Water Activity Permit	100%
18. Lay Down Yard Facility	90%
19. Customs Brokerage Services	100%
20. Export Packaging/Crating, Preservation, and Inspection	50%
21. Pest Control Exterminator Services	95%
22. Cargo Management/Monitoring	75%
23. Ship & Rig Chandlery Services	25%
24. Borehole Testing Services	20%

Sectors and Sub-sector for Guyanese Businesses	End of 2022
25. Environmental Services and Studies	25%
26. Transportation Services	
a. Trucking	75%
b. Ground Transportation – movement of personnel	100%
27. Metrology Services	10%
28. Ventilation (private, commercial, industrial)	70%
29. Industrial Cleaning Services – onshore	75%
30. Security Services	95%
31. ICT - network installation, support services	20%
32. Manpower and Crewing Services	50%
33. Dredging Services	10%
34. Local Insurance Services	90%
35. Accounting Services	20%
36. Local Legal Services	90%
37. Medical Services	25%
38. Aviation Support Services	20%
39. Engineering and Machining	5%
40. Local Marketing and Advertising Services (public relations)	75%

SECOND SCHEDULE

Section 9(2)

SUB-PLANS

1. Employment Sub-Plans

(1) An Employment Sub-Plan shall include –

(a) a forecast of the hiring needs or training needs of a Contractor, Sub-Contractor or Licensee which includes –

(i) a specification of the skills and competencies needed;

(ii) the anticipated shortages of skillsets in the Guyanese workforce;

(iii) the specific training and competency requirements;

(iv) the anticipated expenditure that will be incurred by the Contractor, Sub-Contractor or Licensee in implementing the forecasted Employment Sub-Plan;

(v)a timeframe within which the Contractor, Sub-Contractor or Licensee will provide employment to Guyanese nationals for each phase of their petroleum operations; and

(b) programmes for –

(i) accelerated industrial and technical education and training for Guyanese nationals and Guyanese companies consistent with the performance standards of the Contractor, Sub-Contractor or Licensee;

(ii) ensuring that first consideration shall be accorded to Guyanese nationals having the relevant qualification and experience:

Provided that where a Guyanese national has the relevant qualification but does not possess the requisite experience, that Guyanese national shall benefit from necessary training, and work alongside

a non-Guyanese national who will serve as a coach or mentor for a period determined by the Minister, after consultation with the Secretariat;

(iii) ensuring that equal treatment and opportunity be afforded to all Guyanese nationals irrespective of race, political opinions, colour, creed, age, disability, marital status, sex, gender, language, birth, social class, pregnancy, religion, conscience, belief or culture or geographical location in Guyana; and

(iv) enhancing the skills of Guyanese nationals that will allow Contractors, Sub-Contractors or Licensees to meet the minimum local content levels set out in the First Schedule.

(2) A Contractor, Sub-Contractor or Licensee shall provide to the Secretariat a half yearly report on –

(i) employment and training activities for the reporting period including the percentages of managerial, technical and non-technical staff;

(ii) a comparative analysis of the Employment Sub-Plan and the employment and training activities to monitor compliance; and

(iii) the number of Guyanese Nationals employed during the reporting period, their job descriptions and salary scales.

(3) The Secretariat may require any further information from a Contractor, Sub-Contractor or Licensee which the Secretariat considers necessary for the purpose of carrying out the objectives of this Act.

Procurement Sub-Plan

(1) A Procurement Sub-Plan shall include –

(a) a supply chain management strategy which shall –

(i) include a forecast of required goods and services;

(ii) identify the goods and services to be procured from qualified Guyanese nationals and Guyanese companies;

(iii) provide Guyanese nationals or Guyanese companies with timely and appropriate access to-

(4) information;

(5) business opportunities;

(6) joint venture and partnership opportunities;

(7) technology and know-how;

(8) procurement systems and procedures suited to the scale and capacity of the local market;

(9) contract and payment terms that facilitate competitive financing and growth; and

(10) performance management systems and procedures, with feedback and support for improvement;

(b) a procurement strategy which –

(i) includes local content at each phase of petroleum operations;

(ii) ensures a fair opportunity for Guyanese nationals and Guyanese companies to actively participate and gain experience so as to attain requisite standards;

(iii) gives first consideration to goods and services, supplied or provided by Guyanese nationals and Guyanese companies;

(iv) aligns with any procurement guidelines developed by the Secretariat.

(2) A Contractor, Sub-Contractor or Licensee shall provide to the Secretariat a half yearly report on –

(a) procurement activities for the reporting period; and

(b) a comparative analysis of the Procurement Sub-Plan and the procurement activities to monitor compliance;

(c) the number of Guyanese nationals or Guyanese companies which supplied goods and provided services to the Contractor, Sub-Contractor or Licensee during the reporting period.

(3) The Secretariat may require any further information from a Contractor, Sub-Contractor or Licensee which the Secretariat considers necessary for the purpose of carrying out the objectives of this Act.

Local Capacity Development Sub-Plan

(1) A Local Capacity Development Sub-Plan shall include-

(a) standards for measuring and comparing suppliers'-

(i) capabilities;

(ii) qualifications; and

(iii)certification of skills, goods, and services;

(b) programmes for facilitating the formation of partnerships, joint ventures, or other alliances between qualified Guyanese nationals or Guyanese companies, and non-Guyanese nationals or non-Guyanese companies in the petroleum sector; and

(c) local market condition analysis which includes a profile of current and potential supply capacity of Guyanese nationals and Guyanese companies.

(2) A Contractor, Sub-Contractor or Licensee shall provide to the Secretariat a half yearly report on –

(a) local capacity development activities for the reporting period; and

(b) a comparative analysis of the Capacity Development Sub-Plan and the capacity development activities to monitor compliance.

(3) The Secretariat may require any further information from a Contractor, Sub-Contractor or Licensee which the Secretariat considers necessary for carrying out the objectives of this Act.

EXPLANATORY MEMORANDUM

The Local Content Bill 2021 represents the principal vehicle through which Guyana seeks to negotiate a tradeoff between investors engaged in the petroleum sector and Guyanese nationals and Guyanese companies involved the petroleum sector. The Bill endeavours to do so by striving for economic diversification through prioritising Guyanese nationals and Guyanese companies in the procurement of goods and services for the enhancement of the petroleum sector value chain. This prioritisation will guarantee that there is an increased retention of the economic benefits in Guyana while simultaneously allowing for there to be an upsurge in the number, competencies, and capabilities of Guyanese nationals and Guyanese companies participating in the petroleum sector. To deliver on its legislative target, the Bill puts in place regulatory mechanisms to implement, investigate, supervise, co-ordinate, monitor, and evaluate participation in local content in Guyana. Altogether, the Bill provides for the promotion of competitiveness, and the encouragement of the creation of related industries that will sustain the social and economic development of Guyana as well as other related matters.

Part 1 of the Bill references the short title and defines the main terms of the Bill including who is a Guyanese National and Guyanese Company, and what is Local Content.

PART II provides for General Provisions.

Clause 3 provides for the scope of the application of the Act and imposes the obligation on Contractors, Sub-contractors or Licensees to implement local content as an essential component of their petroleum operations for Guyana.

Clause 4 provides for the duties of the Minister.

Clause 5 establishes the Local Content Secretariat as a unit within the Ministry responsible for Petroleum. It also provides for staffing of the Secretariat and the functions of the Secretariat which includes developing and maintaining measures for the effective implementation of local content by Contractors, Sub-contractors or Licensees.

Clause 6 establishes Local Content Registers for the registration of Guyanese nationals seeking employment, and Guyanese nationals and Guyanese companies seeking to supply goods or provide

services which will count towards enabling Contractors', Sub-contactors' or Licensees' compliance with the minimum local content levels under the Bill.

Clause 7 provides for the minimum local content levels as specified in the First Schedule and imposes the obligation on Contractors, Sub-Contractors or Licensees to comply with the minimum local content levels as specified. Critically, the section also allows for the Minister to waive the requirement to comply with the minimum local content levels where (1) a petroleum operation is deemed to be of national interest; (2) a Contractor, Sub-Contractor or Licensee is unable to comply with the minimum local content levels in the performance of any petroleum operation due to the lack of current domestic capacity; or (3) compliance with a Master Services Agreements executed by a Contractor, Sub-Contractor or Licensee which is still in force immediately before the coming into operation of this Act prevents the Contractor, Sub-Contractor or Licensee from complying with the minimum local content levels set as prescribed.

PART III provides for Local Content Plans and reporting responsibilities.

Clause 8 provides for the submission of a Local Content Master Plan for approval by the Minster. It also provides for the submission of a modified Local Content Master Plan where there has been an unavoidable or unforeseen change in circumstances after the time of submitting the Local Content Master Plan.

Clause 9 provides the contents of a Local Content Master Plan which shall include an Employment Sub-Plan, Procurement Sub-Plan and Capacity Development Sub-Plan, the contents which are set out in the Second Schedule.

Clause 10 provides for, amongst other things, the submission of a Local Content Annual Plan, the contents of the Plan, and establishes the yearly requirement to implement an approved Local Content Annual Plan.

Clause 11 provides for the review of Local Content Plans as well as the processes and timelines for the approval or rejection of Local Content Plans.

Clause 12 provides for the obligation on a Contractor, Sub-contractor or Licensee to provide the Minister and the Secretariat with a half yearly local content report outlining their compliance with the minimum local content levels as approved.

Clause 13 provides for the bid evaluation principles that Contractors, Sub-Contractors or Licensees ought to comply with in their procurement process.

Clause 14 provides for the obligation to submit all Master Services Agreements entered in by a Contractor, Sub-contractor or Licensee for review within thirty days of the coming into operation of this Bill or the execution of the Master Services Agreements.

Clause 15 provides for the development of measures and the implementation of strategies by the Secretariat, in collaboration with the relevant stakeholders, to promote local capacity development.

Part IV provides for Monitoring, Evaluation and Reporting.

Clause 16 provides for the obligation of the Secretariat to monitor and evaluate the petroleum operations of a Contractor, Sub-Contractor or Licensee for the purpose of carrying out the provisions of this Bill. It gives the Secretariat the power to review at any time all data on local content kept by a Contractor, Sub-Contractor or Licensees to ensure compliance with the Bill.

Clause 17 provides for the submission of a performance report and the consequences that follow from an assessment of whether the report complies with the Bill.

Clause 18 provides for the Secretariat to report to the Minister on local content activities and achievements or the lack thereof of the Contractors, Sub-Contractors or Licensees under the Bill. The report includes specific areas of focus on which the Minister will cause a report to be laid before the National Assembly.

Clause 19 provides for the Secretariat or a representative of the Secretariat to have unrestricted access to the Contractor's, Sub-Contractor's or Licensee's facilities to monitor, assess, evaluate, investigate, audit and verify compliance with the Bill.

PART V establishes and constitutes the Inter-Agency Committee for the purpose of supporting the Secretariat in the discharge of its functions in an advisory capacity.

PART VI provides for other related matters.

Clause 21 provides for the Secretariat to initiate any investigation into any petroleum operation of a Contractor, Sub-Contractor or Licensee for the purpose of ensuring compliance with this Bill.

Clause 22 provides for secrecy and confidentiality obligations in relation to any information that is submitted pursuant the provisions of the Bill but are not required to be published. A person commits an offence if they fail to comply with the secrecy and confidentiality obligations.

Clause 23 provides for a range of offences and the associated penalties. The offences ranges from submitting beyond the prescribed time a local content plan, return, report, record, or any other document pursuant the provision of this Bill to failing to satisfy the prescribed local content requirements of an approved local content plan. The offences under this clause is punishable by maximum fines ranging from one million dollars to ten million dollars.

Clause 24 provides for the same penalty imposed on a body corporate for the commission of an offence to be imposed on a class of persons within a body corporate where the body corporate commits an offence and it is proved that the class of persons consented to, connived or neglected in their capacity.

Clause 25 provides for the Minister to make regulations for carrying out the purposes of the Bill.

Clause 26 provides for the Minister, by Order subject to affirmative resolution of the National Assembly, to amend the monetary penalties specified in the Bill.

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Hon. Vickram Bharrat, MP.
Minister of Natural Resources
Minister with Responsibility for Petroleum