

SEAL No 40475



GUYANA

ACT No. 28 of 1975

ACT *cm*
EXCHANGE CONTROL (AMENDMENT) 1975

I assent.

E. V. Luckhoo
 E. V. LUCKHOO,
 Chancellor
 performing the
 functions of the
 Office of
 President.
 8th August, 1975.

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Amendment of the Fifth Schedule to Chapter 86:01.
3. Amendments to Chapter 82:01.

AN ACT to amend the Exchange Control Act and to effect related amendments to the Customs Act.

A.D. 1975 Enacted by the Parliament of Guyana:—

Short
title.
Cap. 86:01.

1. This Act, which amends the Exchange Control Act, may be cited as the Exchange Control (Amendment) Act 1975.

Amendment
of the
Fifth
Schedule
to Chapter
86:01.

2. The Fifth Schedule to the Exchange Control Act is hereby amended in the following respects —

- (a) by the insertion in Part II immediately after paragraph 3 of the following paragraphs as paragraphs 4 and 5 respectively —

Cap. 8:01

“4. Where a fine is imposed by a court on any person convicted on indictment of an offence punishable under or by virtue of this Part of this Schedule then, without prejudice to section 12(3) of the Criminal Law (Offences) Act or any directions issued thereunder, but subject as hereinafter provided, the fine may be recovered in like manner by way of execution on the property of that person as if it were a sum adjudged to be paid to the State by the court acting in the exercise of its civil jurisdiction and the period of imprisonment directed pursuant to that section to be suffered by that person for the non-payment of the fine shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days of imprisonment which such person is so directed to suffer as the sum recovered by execution bears to the sum payable as a fine.

5.(1) Without prejudice to any other penalty which may be imposed by a court upon a person convicted of an offence punishable under or by virtue of this Part of this Schedule, the court in imposing sentence on that person may, on the application of the Director of Public Prosecutions —

- (a) if that person is not a citizen of Guyana, order that as part of the sentence he be expelled from Guyana at such time as the court sees fit;
- (b) if that person is a citizen of Guyana, order that as part of

the sentence he be prohibited from leaving Guyana until the expiration of a period of —

- (i) not more than one year from the termination of any imprisonment suffered by him pursuant to the sentence; or
- (ii) not less than one year but not more than three years from the date of conviction where no imprisonment is ordered,

and any travel document issued to that person by or on behalf of the Government of Guyana and valid at the time of conviction shall forthwith be surrendered by him to the clerk of the court who upon receipt thereof shall forward it to the Chief Immigration Officer for his retention while the prohibition continues in force; and if the person convicted does not possess a travel document any application made by him for the issue to him of such a document shall not be entertained so long as the prohibition continues in force.

(2) No order shall be made under sub-paragraph (1) unless the court is satisfied upon the evidence on which the conviction is based that the conviction is for an offence which arose out of circumstances connected with the impending departure from Guyana of any person.

(3) Notwithstanding anything to the contrary in any law an order made under sub-paragraph (1) (b) shall have effect pending the final determination of any appeal in respect of the conviction in consequence of which the order was made and on any appeal against a conviction in respect of which an application was made under sub-paragraph (1), the Director of Public Prosecutions shall for the purposes of any law be

deemed a respondent save that, notwithstanding anything to the contrary in any law, no sum shall be required to be given as security in respect of him for the due prosecution of the appeal.

(4)(a) Any person required to leave Guyana by an order made under sub-paragraph (1)(a) who shall be within Guyana after the expiration of the time fixed by the order shall be liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment, for six months.

(b) Any such person may be apprehended without warrant by any police constable and shall be deported from Guyana forthwith or after he shall have served any term of imprisonment imposed on him for his offence.

(c) References in this sub-paragraph and in the succeeding sub-paragraphs to an order made under sub-paragraph (1)(a) or the time fixed by that order shall include references to such an order as varied by a court on appeal or any extension of the time fixed by that order or by that order as so varied which the Minister considers necessary to grant for the purpose of enabling the person to whom the order applies to make arrangements for his departure from Guyana expeditiously having regard to his personal circumstances.

(5)(a) Any person who having left Guyana in compliance with an order made under sub-paragraph (1)(a) or having been deported therefrom under or for disobedience to any such order, returns to Guyana without the permission of the Minister shall be liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for six months.

(b) Any such person may be apprehended without warrant by any police constable and shall be deported from Guyana forthwith or after he shall have served any term of imprisonment imposed on him for his offence.

(6) Any person apprehended under or for disobedience to an order made under sub-paragraph (1)(a) shall, pending deportation from Guyana, be detained in custody in such place and manner as the Minister may direct.

(7) (a) Any person liable to be deported pursuant to an order made under sub-paragraph (1)(a) shall be deported in such manner as the Minister may direct.

(b) The Minister may seize and apply any money or property of any such person in payment of the whole or any part of the expenses of or incidental to his deportation and to his maintenance in custody pending deportation.

(8) No person shall be so detained in custody for any longer period than is necessary for the purpose of the completion of arrangements for his deportation from Guyana at the first reasonable opportunity.

(9) Any person who harbours any other person whom he knows or has reasonable grounds for believing to be acting in contravention of an order made under sub-paragraph (1)(a) shall be liable on summary conviction to a fine of seven hundred and fifty dollars and to imprisonment for six months.

(10) Any person who —

- (a) fails to surrender any travel document as required by sub-paragraph (1)(b); or
- (b) attempts to leave Guyana in breach of an order made under sub-paragraph (1)(b),

shall on summary conviction be liable to a fine of not less than five hundred dollars but not more than one thousand dollars and to imprisonment for two years, commencing at the end of any other term of imprisonment imposed on him.

(11) For the purpose of any proceedings under sub-paragraph (10) an averment in a complaint thereunder to the effect that a travel document was issued on a particular day to the defendant and was valid for a particular period shall be *prima facie* evidence of those facts.

(12) Where a person is subject to an order made under sub-paragraph (1) (b) and wishes to leave Guyana, he may apply to the court by which the order was made to suspend the prohibition imposed by the order and notice of the hearing of the application shall be given by the clerk of the court to the Director of Public Prosecutions who may make any representations at the hearing.

(13) On the hearing of the application the court may —

- (a) if it is satisfied that the applicant requires medical treatment which is not available in Guyana; or
- (b) if the Minister, having had regard to the conduct of the applicant subsequent to the conviction, the circumstances in which the offence was committed, the prevalence of such offences, the purpose for which the applicant wishes to leave Guyana and the hardship likely to ensue upon his being prevented from doing so, has stated in writing that the State offers no objection to the departure from Guyana of the applicant.

direct that the order be suspended for such period and on such conditions (including the giving of any securities for the return to Guyana of that person) as the court sees fit, and thereupon the clerk of court shall inform the Chief Immigration Officer accordingly.”; and


- (b) by the substitution for paragraph 5 of Part III of the following paragraph as paragraph 5 —

“5. Paragraphs 1 (2), 4 and 5 of Part II of this Schedule shall apply also to offences punishable under or by virtue of this Part of this Schedule.”.

3. The Customs Act is hereby amended in the following respects — Amendments
to Chapter
82:01

- (a) by the insertion in sections 218 and 219, respectively, immediately after the word “Comptroller” of the words “and to imprisonment for one year”; and
- (b) by the substitution in section 256 for the words “Where a fine of one thousand dollars or upwards has been incurred” of the words “Subject to any other provision of this Act or any other law imposing a sentence of imprisonment for an offence under this Act, where a defendant is liable to a fine of one thousand dollars or upwards for an offence”.

Passed by the National Assmebly on the 28th of July, 1975.


F. A. NARAIN,
Clerk of the National Assembly.

(Bill No. 28/1975)
(L 135 111)