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WEDNESDAY 16TH AUGUST, 2023

THE OFFICIAL GAZETTE 16TH AUGUST, 2023
LEGAL SUPPLEMENT — A

GUYANA

ACT NO. 17 OF 2023

PETROLEUM ACTIVITIES ACT 2023

I assent.

Mohamed Irfaan Ali,
President.
16th August, 2023

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AN ACT to repeal and replace the Petroleum (Exploration and Production) Act Cap. 65:04 and the Petroleum (Production) Act Cap 65:05; to provide for the exploration, production, storage, and transportation of petroleum in Guyana; and for related matters.

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

PART I
PRELIMINARY

Short title and commencement.

1. (1) This Act may be cited as the Petroleum Activities Act 2023.

(2) This Act shall come into operation on a date appointed by the Minister by Order.

Interpretation.

2. In this Act –

"appraisal" means the exploration operations carried out for the purpose of estimating the quantity of recoverable petroleum in a petroleum reservoir and assessing the commerciality of a discovery;

"best international industry standards and practices" means all those uses and practices that are, at the time in question, in accordance with the most up to date international standards that are generally accepted in the international oil and gas industry as being state-of-the-art or otherwise appropriate to the operations in question, safe, economical, environmentally sound and efficient in exploring for, developing, producing, processing and transporting petroleum;

"block" means a block constituted under the Regulations, and includes a part of a block so constituted;

"commercial discovery" means any discovery, which a licensee, in its sole judgment, considers economic to develop and produce;

"company" means a company incorporated or registered as an external company under the Companies Act;

Cap. 89:01

"decommission" or "decommissioning" includes the process of ending petroleum operations, the temporary and permanent plugging of wells, the removal, partial removal or abandonment in place of wells, facilities and assets used in the conduct of petroleum operations, including, without limitation, pipelines, equipment, production and treatment facilities, electrical facilities, landing fields, and telecommunication facilities, site restoration and remediation operations, and use, reuse or relocation of petroleum infrastructure for alternative purposes;

"development" means all work associated with -

(a) planning, procurement, design, and execution related to the drilling and completion of development wells; and

(b) planning, design, construction, installation, and commissioning of facilities for the production of petroleum including the purchase or leasing of all materials and equipment which are required for production, treatment, waste disposal, transport, storage and lifting of petroleum and

for reservoir pressure maintenance, injection, recycling and secondary and tertiary recovery projects;

"development and production area" means the area, constituted by a block in relation to which a petroleum production licence has been granted;

"discovery" means the discovery of petroleum not previously proven by drilling and which can be or is recovered at the surface in a flow measurable by conventional petroleum industry testing methods;

"discovery area" means the area in which the discovery is made, as reasonably determined by the holder of a licence;

Cap 20:05 "Environmental Protection Act" means the Environmental Protection Act, as from time to time modified, amended or supplemented;

"exploration operations" means operations carried out for, or in connection with, exploration for petroleum;

"exploration area" means the area, constituted by a block or blocks in relation to which a petroleum exploration licence has been granted;

"family member" means the husband or wife, or reputed husband or wife, and the child or children of a government official or member of Parliament;

"field" means an area consisting of a petroleum reservoir or multiple petroleum reservoirs all grouped on, or related to, the same individual geological structural features or stratigraphic conditions from which petroleum may be produced commercially;

"field development plan" means the detailed plan for the development and production activities including the construction, establishment and operation of all facilities and services for, and incidental to the recovery, processing, storage and transportation of petroleum from the proposed production field, giving an account of resource related, reservoir engineering, development concept, production facilities, socio-economic, technical, environmental and safety related aspects of the development, and any other requirement under the Act;

"geological storage licence" means a licence granted by the Minister under this Act to explore, and assess the potential of geological formations for the injection, storage and permanent sequestration of carbon dioxide;

"government official" includes a public officer, an officer or employee of the Government of Guyana, who, in the course of execution of government employment, has a personal, or other pecuniary or non-pecuniary conflict of interest in the participation, acquiring or holding of an interest in a licence or permit;

"holder", in relation to a licence or permit, means the person to whom the licence or permit is granted and, where a licence or permit is granted to a person jointly with others, means every one of the persons to whom the licence or permit is jointly granted, and includes every person to whom the licence or permit or an interest therein is lawfully transferred;

"in default" means in breach of any provision of this Act, any condition of a licence or petroleum agreement, or any direction given by the Minister under this Act;

"land" includes land beneath water and the river-bed or sea-bed, and the subsoil of such land and the river-bed or sea-bed;

"licence" means a licence granted under section 6;

Act No. 18 of 2021.

"Local Content Act" means the Local Content Act, as from time to time modified, amended or supplemented;

"Minister" means the person assigned or charged with responsibility for petroleum;

"national territory" means the territory of Guyana and the area over which the State exercises sovereignty and sovereign rights over natural resources including its internal water, territorial sea, the contiguous zone, continental shelf, continental margin and exclusive economic zone of Guyana;

"permit" means a geological or geophysical permit granted under section 18 of the Act;

"petroleum" means—

(i) any naturally occurring hydrocarbons, whether in a gaseous, liquid or solid state;

(ii) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid or solid state; or

(iii) any naturally occurring mixture of one or more hydrocarbons, (whether in a gaseous, liquid or solid state) and any other substance,

and includes any petroleum as defined by paragraph (i), (ii) or (iii) that has been returned to a natural reservoir, but does not include coal, shale or any substance that may be extracted from coal or shale;

"petroleum agreement" means an agreement in respect of any of the matters referred to in section 12 of the Act;

"Petroleum data" includes all data, well logs, maps, magnetic tapes, cuts of cores and cutting samples and all other geological and geophysical information obtained by the holder of a license or permit in the course of carrying out petroleum operations under the Act, and all geological, technical, financial and economic reports, studies and analysis generated in relation thereto;

"petroleum exploration licence" means a licence granted by the Minister under this Act, which permits the holder to carry out petroleum exploration and appraisal operations;

"petroleum operations" means exploration operations, appraisal, development and production operations or any combination of two or more of such operations, including construction, operation and maintenance of all necessary facilities, plugging and abandonment of wells, safety, environmental protection, transportation, storage, sale or disposition of petroleum to the delivery point, site restoration and any or all other incidental operations or activities as may be necessary and required;

"petroleum production licence" means a licence granted by the Minister under this Act, which permits the holder to carry out development and production operations;

"petroleum reservoir" means a naturally occurring discrete accumulation of petroleum;

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

PART II

ADMINISTRATION AND AUTHORITY

Vesting of property in petroleum in the State.

3. The property of petroleum existing in its natural condition in strata in the national territory is vested in the State.

Management of Petroleum resource.

4. The Minister shall be responsible for the administration of this Act, which responsibility shall include the general management of the petroleum resources of Guyana in accordance with this Act or any other written law.

Powers and duties of Minister.

5. (1) The powers and duties of the Minister include –

(a) the licensing of petroleum exploration, development, production, transportation and storage operations, including the geological storage of carbon dioxide;

(b) the prescribing of subsidiary legislation and the issuing of such guidelines as may be necessary for effectively carrying out the purpose of this Act;

(c) coordinating and cooperating with relevant agencies of the State regarding the environmental and safety aspects of petroleum operations;

(d) the monitoring of the conduct of petroleum operations to ensure compliance with this Act, and the terms and conditions of a licence or permit granted, or a petroleum agreement entered into, under this Act and any other written law;

(e) directing persons conducting petroleum operations to perform corrective actions where there is non-compliance with this Act and the terms and conditions of a licence or permit granted, or petroleum agreement entered into, under this Act and any other written law and imposing sanctions for non-compliance with this Act;

(f) developing terms of reference and prescribing qualification criteria for the grant of a licence;

(g) giving licensees or holders of a permit directions as to any matter with respect to which regulations may be made under this Act;

(h) doing any and all things required by any direction given under section 17 and recovering such costs and expenses incurred for doing so in the same manner as revenues due to the State;

(i) directing that such studies and investigations, as the Minister deems fit, be done; and

(j) exercising any other powers required for the management of petroleum resources and operations carried out under this Act.

(2) The Minister, in the exercise of the powers and the performance of the duties of the Minister prescribed by this Act, shall conform with any general or specific directions given to the Minister by the Cabinet.

(3) The Minister may, in relation to any particular matter or class of matters in subsection (1), delegate in writing to any public officer or Agency of the State any of the powers or duties of the Minister under this Act.

(4) Notwithstanding any delegation in accordance with subsection (3), the Minister may continue to exercise any power or perform any duty of the Minister in accordance with this Act.

(5) Any delegation under this section and any act done in pursuance of that delegation, may be made subject to review and variation by the Minister, and the decision given upon such review or variation shall be deemed to be that of the Minister.

(6) The Minister may, at any time and in writing, revoke any delegation made under this section.

Licences.

6. (1) A company may make an application to the Minister in the form, and subject to the payment of the fee prescribed by the Minister by subsidiary legislation, for the grant of a -

(a) geological or geophysical survey permit under section 18;

(b) petroleum exploration licence under section 19;

(c) petroleum production licence under section 32;

(d) pipeline operations licence under section 66; and

(e) geological storage licence for carbon dioxide under section 71.

(2) A licence or permit granted to a company by the Minister pursuant to subsection (1) shall be granted subject to such conditions as the Minister deems fit.

(3) A person who carries out petroleum operations without a licence or permit issued under this Act commits an offence and shall, on summary conviction, be liable –

(a) in the case of an individual, to a fine of fifteen million dollars and in the case of a continuing offence, five million dollars a day for every day the offence continues together with imprisonment for three years; or

(b) in the case of a company, to a fine of thirty million dollars and in the case of a continuing offence, ten million dollars a day for every day the offence.

(4) Where the offence under this section has been committed by a company and is proven to have been committed with the consent or negligence of a director, company secretary or any other officer of the company, or any person who was purporting to act in such capacity, that person, as well as the company, shall be guilty of the offence and that person shall be liable to the same penalty as an individual under this section.

Grant of licence.

7. (1) A licence granted under this Act, shall be granted by the Minister through the process of –

(a) competitive tender; or

(b) direct negotiation, where the Minister, acting on the directions of Cabinet, determines that special circumstances exist which, in the national interest or national security, justify the use of direct negotiation to grant a licence.

(2) Pursuant to subsection (1)(a), the Minister may, by notice in the *Gazette* –

(a) invite applications in respect of the area specified in the notice;

(b) specify the period within which an application may be made; and

(c) specify the conditions subject to which any application may be made.

(3) After the receipt of an application under subsection (2), the Minister may select, for further negotiation, the most substantially responsive bidder.

(4) An exploration or production licence shall not be granted to an applicant in respect of an area which is comprised in an exploration or production licence already granted to a company other than the applicant.

Qualification criteria.

8. For the purposes of section 7(2), the Minister shall prescribe the qualification criteria by Notice published in the *Gazette*, which may include –

(a) technical qualification criteria, which may vary by geography or water depth;

(b) financial qualification criteria commensurate with the financial resources needed to carry out petroleum operations in relation to specified blocks;

(c) requirements related to the applicant's safety and environmental policies;

(d) requirements related to previous performance by the applicant in petroleum operations in or out of the jurisdiction of Guyana;

(e) the requirement for an applicant to provide a financial undertaking for the payment of a bonus bid;

(f) the award criteria may consist of any or all of the following –

(i) a signature bonus;

(ii) exploration work commitment;

(iii) other commercial, climate or social investment considerations the Minister may deem fit; and

(g) any other criteria the Minister deems fit.

Publication of application for licence.

9. The Minister shall publish the details of an application for a licence by notice in the *Gazette*.

Restriction on persons to whom a licence may be granted.

10. (1) The Minister shall not grant a licence or permit under this Act to a person other than a company.

(2) A licence or permit may be granted to two or more companies associated together in any form of joint arrangement.

(3) Where a licensee or the holder of a permit is constituted of two or more companies, the obligations to be observed and performed by the licensee or the holder of a permit under this Act shall be joint and several, but shall be without prejudice to any right of contribution which may exist between all or any of those companies.

Prohibition against a government official holding an interest in a licence.

11. (1) A government official or member of Parliament, or a family member of a government official or member of Parliament shall not

acquire or hold any legal, equitable, or beneficial interest in a licence granted under this Act.

(2) A person who contravenes subsection (1) commits an offence and shall, on summary conviction, be liable to a fine of ten million dollars together with imprisonment for one year and any licence, interest in a licence or share acquired or held shall be forfeited to the State.

(3) It shall be a defence to any proceedings under subsection (2) where the accused person proves that interest in the licence was acquired or held –

(a) by operation of law;

(b) before the government official or member parliament became a government official or member of Parliament; or

(c) before the company was granted a licence under this Act,

and as soon as possible after acquiring that interest in the licence, the person disposed of, or has taken, or is in the process of taking, all reasonable steps to dispose of that interest in that licence.

Petroleum agreement.

12. The Minister may enter into an agreement, not inconsistent with this Act, with a company for –

(a) the grant of a licence or permit pursuant to section 6;

(b) the conditions to be included in a licence or permit granted or renewed under this Act;

(c) any matter incidental to or connected with paragraphs (a) and (b).

Notice of decision on application for licence or permit.

13. (1) The Minister shall notify, in writing, an applicant of the decision of the Minister for the grant or renewal of a licence or permit pursuant to section 7.

(2) Where the Minister intends to grant a licence or permit, the Minister shall serve a notice on the applicant of that intention and the conditions subject to which the licence will be granted, and the applicant shall, in writing, notify the Minister within sixty days of that notice, or such further period as the Minister may determine, whether the applicant accepts the conditions of the grant of the licence.

(3) Where the applicant accepts the conditions of the grant or renewal of a licence or permit in accordance with subsection (2), the Minister shall issue the licence or permit on those conditions:

Provided that where the applicant fails to accept the conditions of the grant or renewal of the licence or permit within the period specified in subsection (2), the application shall lapse.

Form and publication of grant of licence or permit.

14. (1) A licence or permit granted under this Act shall be issued in such form as may be prescribed by the Minister by regulations.

(2) The Minister shall, as soon as may be practicable after a licence or permit has been granted or renewed under this Act, publish a notice in the *Gazette* stating the name of the licensee or holder of the permit and the coordinates of the area in respect of which the licence or permit has been granted.

Ancillary rights.

15. Subject to section 78, the Minister shall assist the holder of a licence under this Act to obtain ancillary rights required for the purpose

of exercising the rights granted by the licence or a petroleum agreement, which may include –

(a) a right to enter upon land and carry out petroleum operations;

(b) a right to use and occupy land for –

(i) the construction of buildings;

(ii) the installation and operation of production facilities;

(iii) the laying and maintenance of pipelines and storage infrastructure; and

(iv) carrying out all other related works as may be required for the purpose of the licence or petroleum agreement;

(c) a right to use water; and

(d) a right to build roads, bridges, or other enabling or preparatory infrastructure works as may be required for petroleum operations.

Restriction on exercise of rights by licensee.

16. Nothing in this Act shall be construed—

(a) where the doing of any act is prohibited by any other written law, as authorising a licensee to do that act; or

(b) where the doing of any act is regulated by any other written law, as authorising a licensee to do that act otherwise than in accordance with that written law.

Direction of the Minister.

17. (1) Subject to subsidiary legislation made under this Act, the Minister may, by notice served on a licensee, give to the licensee any direction, consistent with best international industry standards and practices, as to any matter with respect to this Act and that direction shall be complied with within the time specified in the notice by the Minister or, where the time within which the direction shall be complied with is not specified, with all reasonable speed and as often as the occasion for such compliance arises.

(2) A licensee who fails or neglects, without reasonable cause, to comply with any direction given under subsection (1), shall be liable, on summary conviction, to a fine of five million dollars and in the case of a continuing offence, one million dollars a day for every day the offence continues.

(3) Notwithstanding the conviction of a licensee under subsection (2), the Minister may cause to be done all or any of the things required by the direction given under subsection (1) to be done, and the costs and expenses incurred in doing so shall be recoverable by the Minister in the same manner as debts due to the State may be recovered.

PART III

EXPLORATION

Geological or geophysical survey permit.

18. (1) A company may make an application to the Minister for the grant of a permit to carry on geological, geophysical and other surveys and investigations in Guyana which in the opinion of the Minister are relevant for the identification of petroleum reservoirs or the exploration for, or production of, petroleum, on such terms and conditions as the Minister deems fit.

(2) The application shall be made in the form, and subject to the payment of the fee prescribed by the Minister by subsidiary legislation.

(3) The terms and conditions referred to in subsection (1) may include—

(a) the term for which the permit is granted;

(b) the commercial terms related to revenue generated by the licensing of information obtained under the permit;

(c) terms for the supply to the Minister of information obtained as a result of any survey or investigation authorised by the permit;

(d) restrictions, if any, on the dissemination to any person other than the Minister of any information obtained as a result of the survey or investigation; and

(e) terms related to payment to the Government of fees for the grant of the permit.

(4) The Minister may revoke a permit granted under subsection (1) where the holder of the permit contravenes any of the terms and conditions of the permit:

Provided that the Minister may not revoke a permit under this section without first notifying the permit holder in writing of the breach and affording him a reasonable time to remedy the breach.

Rights conferred by and content of a petroleum exploration licence.

19. (1) A company may make an application to the Minister for a petroleum exploration licence in the form and manner, and subject to the payment of such fees as prescribed by subsidiary legislation.

(2) Subject to this Act, the conditions specified in a petroleum exploration licence or a petroleum agreement, confers on the licensee, the exclusive right to carry on exploration operations in the area to which the licence relates.

(3) A petroleum exploration licence shall –

(a) state the date of the grant of the licence;

(b) identify the area to which the licence relates;

(c) state the conditions subject to which the licence is granted, including those conditions which are necessary to give effect to any petroleum agreement entered into by the Minister and the applicant for the licence; and

(d) prescribe minimum exploration work commitments and spending obligations agreed in the licence or petroleum agreement.

(4) Notwithstanding subsection (3), a petroleum exploration licence may contain such other matters as the Minister may determine for the purposes of this Act, including any provision with respect to the exercise by the State of an option to acquire, on prescribed terms and conditions, or on terms to be agreed in the future, an interest in a petroleum production licence.

Term of petroleum exploration licence.

20. (1) A petroleum exploration licence shall specify the term of the licence and may provide for an additional non-renewable preparatory period, not exceeding six months, to enable the licensee to make the necessary preparations to carry out the exploration operations authorised by the licence.

(2) Where a preparatory period is provided for in a petroleum exploration licence pursuant to subsection (1), the term of the licence shall commence on the date immediately following the expiration of that preparatory period.

(3) The Minister may prescribe by subsidiary legislation the maximum term for a petroleum exploration licence and any renewals.

(4) Upon the expiry of the term of a petroleum exploration licence, the licence, unless sooner determined by surrender or cancellation under this Act, shall continue in force if before the expiry of that term, an application has been made by the licensee for the grant of–

(a) a renewal of the petroleum exploration licence; or

(b) a petroleum production licence in relation to the area to which the licence relates,

and until the application is finally determined by the Minister or the application otherwise lapses.

(5) Where a petroleum exploration licence in respect of any area in which petroleum has been discovered ceases to be in force by reason of the expiration of the term of the licence, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue to be in force in respect of the discovery until –

(a) a notice of potential commercial interest is served pursuant to section 26, or if provided for in a petroleum agreement, until the expiry of the period prescribed in the petroleum agreement for serving that notice, whichever occurs first;

(b) a decision is made by the Minister in relation to a proposed appraisal programme pursuant to section 27;

(c) a decision is made by the Minister in relation to an application by the licensee for the retention of the discovery pursuant to section 29;

(d) a decision is made by the Minister in relation to an application pursuant to section 30(3) for the extension of time to declare commerciality and make an application for a production licence under section 32; and

(e) a decision is made by the Minister in relation to any other application pending his approval.

(6) If an appraisal programme submitted by the licensee pursuant to section 27 is approved by the Minister, the petroleum exploration licence relating to the discovery area that would cease to be in force shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of the discovery area until the expiry of—

(a) the appraisal period specified in the licence or the petroleum agreement; and

(b) any further period allowed by the Minister under section 30(3).

(7) Where an application for retention of the discovery submitted by the licensee pursuant to section 29 is approved by the Minister, the petroleum exploration licence relating to the discovery area that would otherwise cease to be in force shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of

the discovery area until the expiry of the retention period prescribed in the licence or petroleum agreement.

Exploration work programmes and budgets.

21. (1) The holder of a petroleum exploration licence shall meet all the requirements of work and expenditure in, or in relation to, the exploration area –

(a) of the minimum work programme and expenditure stipulated in the licence or the petroleum agreement; and

(b) of each annual work programme and expenditure submitted under subsection (2).

(2) The holder of a petroleum exploration licence shall submit to the Minister for approval, no later than sixty days before the date of the anniversary of the licence in any year of the date of the grant of the licence, detailed and adequate annual work programmes and expenditures with respect to work and expenditure to be carried out or made in the following calendar year.

(3) The requirement in subsection (2) of an adequate programme with respect to work and expenditure shall be deemed to have been met where the programme submitted pursuant to that subsection is consistent with the conditions or requirements relating to work and expenditure contained in a licence or petroleum agreement.

(4) The Minister may, on the written application of the holder of a petroleum exploration licence and in writing, conditionally or unconditionally, amend or suspend any requirement under subsection (1)(b).

(5) The holder of a petroleum exploration licence may, with the approval of the Minister and for good cause, amend the details of any work programme and expenditure which he is required under subsection (1)(b) to carry out or make:

Provided that—

(a) the licensee shall give written notice to the Minister of the details of the amendment and the reasons for the amendment; and

(b) no amendment shall have effect so as to reduce the minimum requirements of the overall work programme and expenditure to be carried out or made during the term of the petroleum exploration licence.

(6) If the holder of a petroleum exploration licence fails to carry out any part of the requirement with respect to –

(a) work and expenditure stipulated in the licence or petroleum agreement; or

(b) a work programme and budget submitted by him pursuant to subsection (2),

the relevant penalty in the licence or in the petroleum agreement shall apply.

Application for renewal of petroleum exploration licence.

22. Subject to this Act, the holder of a petroleum exploration licence may apply for the renewal of the licence, in accordance with regulations prescribed by the Minister.

Renewal of petroleum

23. (1) Subject to subsection (2), the Minister shall grant a renewal of a petroleum exploration licence upon application made under section 22,

exploration licence.

which renewal shall be subject to the terms and conditions as are determined by the Minister to be necessary to give effect to this Act, the licence and, where applicable, the terms of the petroleum agreement.

(2) Subject to subsection (3), the Minister shall refuse to grant a renewal of a petroleum exploration licence if the licensee is in default of the licence or petroleum agreement unless the Minister is of the opinion that special circumstances exist which, in the national interest, justify the granting of the renewal notwithstanding the default.

(3) Subject to subsection (4), the Minister shall not refuse to grant the renewal of a petroleum exploration licence under subsection (2) unless–

(a) the Minister has given to the licensee notice of an intention to do so—

(i) giving in the notice particulars of the ground for the intended refusal; and

(ii) specifying in the notice a reasonable time within which the licensee may take appropriate action for remedying the default or make representations in relation to the default; and

(b) the licensee fails to comply with the notice.

(4) The Minister shall grant the renewal pursuant to subsection (2), where the licensee has, within the time prescribed in subsection (3)(a)(ii),

-

(i) remedied the default; or

(ii) where the default cannot be remedied, paid to the State adequate compensation in relation to the default; or

(iii) made representation in relation to the default and the Minister is satisfied either that there is no longer a default or that there are adequate reasons for the failure on the part of the applicant to remedy the default.

Relinquishment of area upon renewal.

24. (1) Subject to regulations prescribed by the Minister for the renewal of a petroleum exploration licence, a licensee may be required to relinquish –

(a) a portion of the area first licenced as a condition for the first renewal of the petroleum exploration licence; or

(b) a portion of the remaining licenced area for subsequent renewals of the petroleum exploration licence.

(2) For the purpose of determining the portion of the licensed area under subsection 1(a) and (b), a discovery area excluded from the exploration area pursuant to section 28 (1) or 31(2) and any discovery area existing in the exploration area at the date on which the application for the renewal is made shall not be considered.

(3) The blocks in respect of which an application for the renewal of a petroleum exploration licence is made under subsection (1) shall, subject to regulations prescribed by the Minister, be such as to ensure that they constitute a continuous area.

Discovery of petroleum.

25. (1) Where exploration operations result in a discovery, the licensee shall immediately inform the Minister, in writing, of the discovery.

(2) Subject to this Act, a licence or petroleum agreement, the licensee shall –

(a) submit to the Minister, particulars of the discovery and the steps the licensee proposes to take to test the discovery;

(b) conduct the tests specified in paragraph (a) and submit to the Minister the evaluated results of the tests;

(c) submit to the Minister for approval, the steps to be taken, and the timeline in which those steps will be taken to ascertain the quantity of the petroleum in the petroleum reservoir to which the discovery relates within the licence area and in any adjacent open area:

Provided that the licensee may propose amendments to the submission for approval; and

(d) carry out the steps specified in paragraph (d) as approved and immediately submit the results to the Minister.

(3) Where petroleum has been discovered in an exploration area, the Minister may by notice in writing and served on the licensee, direct the licensee—

(a) to submit in writing, within the period specified in the notice, particulars of—

(i) the chemical composition and physical properties of the petroleum;

(ii) the stratigraphical position and depth of the discovery; and

(iii) any other matters relating to the discovery that are specified by the Minister in the notice; and

(b) to do, within the period specified in the notice, all other things as the Minister considers necessary to ascertain the chemical composition and physical properties of the petroleum discovered.

Discovery of petroleum of potential commercial interest.

26. Within thirty days of the date of submission of the evaluated test results in relation to a discovery of petroleum within an exploration area required under section 25(2)(c), the licensee shall serve on the Minister a notice stating whether the discovery is, or is not, in the opinion of the licensee, of potential commercial interest.

Appraisal.

27. (1) Where the notice served under section 26 states that the discovery of petroleum is, in the opinion of the licensee, of potential commercial interest, the licensee may, within six months, unless the licence is sooner determined by surrender or cancellation under this Act, submit to the Minister for approval an appraisal programme to be carried out within a period specified in the licence or the petroleum agreement.

(2) The appraisal programme shall be carried out for the purpose of assessing the feasibility of the construction, establishment and operation of an industry for the production of petroleum in the discovery area and shall contain operations that will enable the licensee to delineate

the extent of the accumulation of petroleum and to determine whether the discovery constitutes a commercial discovery.

(3) The Minister may, by notice served on the licensee, approve or seek modifications to the appraisal programme submitted under subsection (1).

(4) Notwithstanding the approval of the Minister under subsection (3), the Minister may, by notice served on the licensee, direct the licensee to carry out, within a period specified in the notice, any other investigations and studies as the Minister considers appropriate for the purposes of subsections (1) and (2).

(5) The licensee shall submit to the Minister the reports, analysis and data resulting from the investigations and studies carried out under this section as the Minister may require.

Discovery of petroleum of no potential commercial interest.

28. (1) Where the licensee notifies the Minister under section 26 that the discovery of petroleum in the exploration area is not, in the opinion of the licensee, of potential commercial interest then the Minister may within twelve months from the date on which the notice is served on the Minister, direct by notice in writing and served on the licensee, that the licence shall cease to have effect within the period specified in the notice.

(2) The Minister shall not give a direction under subsection (1) unless—

(a) the Minister has given to the licensee a notice of intention to give the direction;

(b) the Minister has specified in the notice a reasonable time within which the licensee may make representation with respect to the notice of intention and the licensee failed to comply with the notice; and

(c) on evidence available to the Minister and after taking into account any representation made by the licensee under paragraph (b), is of the opinion that the discovery is of potential commercial interest.

Retention of discovery.

29. (1) If a discovery of petroleum is considered by the licensee not to be of potential commercial interest at the time of the discovery but is likely to be commercial within five years of the notice of discovery served under section 26, the licensee shall make an application to the Minister, in the form and manner and subject to the payments of the fees as prescribed by the Minister by regulations, for the grant of an authorisation of the Minister to retain the discovery area.

(2) The retention of the discovery is at the sole discretion of the Minister and may be authorised on the terms and conditions the Minister considers necessary and in accordance with the terms and conditions set out in the exploration licence or the petroleum agreement.

(3) Notwithstanding subsection (2), the grant of an authorisation under this section shall be conditional upon the licensee undertaking studies and work obligations to establish the commerciality of the discovery.

Commercial discovery.

30. (1) Subject to subsection (3), the licensee shall submit a declaration to the Minister within the approved appraisal period specified in the licence or petroleum agreement pursuant to section 27(2), stating whether or not, in the opinion of the licensee, the discovery constitutes a commercial discovery.

(2) Where the licensee declares that the discovery does not constitute a commercial discovery, the exploration licence shall cease to have effect in respect of the discovery area twelve months from the date of the declaration made under this subsection.

(3) Prior to the expiration of the appraisal period approved under section 27, the licensee may make an application to the Minister in the prescribed form and manner for the grant of an extension of time to make a declaration of commerciality and to apply for the grant of a petroleum production licence under section 32:

Provided that the Minister may only grant the extension where the Minister believes that there are reasonable grounds for granting the extension and for a period of time as determined by the Minister to be reasonable in the circumstances.

Surrender of exploration area.

31. (1) The holder of a petroleum exploration licence may at any time, while the licence is in force, surrender any block in the exploration area by giving notice to the Minister of the intention to surrender the block three months prior to that surrender.

(2) A surrender under subsection (1) shall be without prejudice to any obligation incurred by the holder of the petroleum

exploration licence in respect of the area to be surrendered prior to the date of the surrender.

(3) Subject to the petroleum exploration licence or petroleum agreement, any block surrendered under subsection (1), unless the Minister otherwise directs, shall be such as to ensure that the remaining exploration area constitutes a continuous area.

(4) Where a block is surrendered under this section, the petroleum exploration licence concerned shall cease to have effect with respect to that block from the date of the surrender.

PART IV
DEVELOPMENT AND PRODUCTION

Application for petroleum production licence.

32. (1) A licensee who has made a declaration of commercial discovery under section 30 while a petroleum exploration licence is in force may, prior to the end of the appraisal period, as specified in the licence or, the petroleum agreement or within such further period as may be allowed by the Minister under this section, apply for the grant of a petroleum production licence in respect of any discovery area shown to contain a petroleum reservoir or part of a petroleum reservoir that can be developed and produced commercially.

(2) If the holder of a petroleum exploration licence fails within the period specified in subsection (1), or within such further period as the Minister may allow, to apply for a petroleum production licence in respect of the whole or part of the discovery area the Minister may, by notice

served on the licensee direct that the licence shall cease to have effect in respect of the discovery area within twelve months of the notice.

(3) Where an exploration area in which a discovery has been made has been surrendered the Minister may solicit applications for petroleum production licences by means of –

(a) competitive tender; or

(b) direct negotiation.

(4) An applicant for a petroleum production licence under subsections (3) shall meet the qualification criteria and other terms and conditions prescribed by regulations or in the case of a competitive tender, published in the *Gazette*.

(5) Notwithstanding subsection (4), an application for a petroleum production licence under this section shall be accompanied by a field development plan for the construction, establishment and operation of all facilities and services for, and incidental to the development, production, processing, storage and transportation of petroleum from the proposed production area.

(6) Where a licensee does not submit a field development plan pursuant to subsection (5) and the Minister has not extended the time limit for the submission of the plan, the discovery area is surrendered.

Grant of petroleum production licence.

33. Subject to section 34, where an application is made under section 32(1) for a petroleum production licence, the Minister may grant the

licence, on such conditions as the Minister determines are necessary to give effect to this Act.

Restrictions on grant of petroleum production licence.

34. (1) A petroleum production licence shall not be granted to an applicant unless—

(a) the field development plan proposed by the applicant would ensure the most efficient development, production and beneficial use of the commercial discovery;

(b) the applicant has adequate financial resources and technical and industrial competence and experience to carry on effective production operations;

(c) the applicant is able and willing to comply with the conditions on which the licence is proposed to be granted;

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(d) the plans of the applicant for local content are in compliance with the Local Content Act;

(e) the exercise of any option given to the State under section 19(4) are complied with to the satisfaction of the Minister;

(f) the plan takes in account best international industry standards and practices; and

(g) where the applicant is in default, the Minister determines that special circumstances exist which justify the granting of the licence notwithstanding the default.

(2) The Minister shall not refuse an application under section 32 for the grant of a petroleum production licence unless—

(a) the applicant is served with a notice that they are in default under this Act or any licence granted to the applicant;

(b) the Minister has given the applicant a notice stating the particulars of the ground of the intended refusal, and also stating a reasonable date within which –

(i) the applicant may make representations in respect of the grounds stated; or

(ii) where the applicant is in default or the proposals made by the applicant require amendment, the applicant may remedy the default or amend the proposals; and

(c) the applicant has not, within the date specified in the notice under paragraph (b) —

(i) made any representation or otherwise dealt with the matters referred to in the notice; or

(ii) in the case referred to in paragraph (b) (ii) remedied the default or amended the proposals.

Contents of petroleum production licence.

35. (1) A petroleum production licence—

(a) shall—

(i) state the date of the grant of the licence;

(ii) identify the block to which the licence relates; and

(iii)state the conditions subject to which the licence is granted; and

(b) may contain such other matters as the Minister may determine for the purposes of subsection (2) or for any other purpose of this Act.

(2) A petroleum production licence may include –

(a) provision with respect to the duty of the licensee to supply petroleum, to the extent specified in the licence, to meet the requirements of Guyana; and

(b) conditions with respect to the disposal or sale of petroleum recovered in the development and production area.

Rights conferred by petroleum production licence.

36. A petroleum production licence confers on the licensee, subject to this Act and the conditions specified in the licence or the petroleum agreement exclusive rights to—

(a) carry on development and production operations in the development and production area;

(b) sell or otherwise dispose of petroleum recovered; and

(c) carry on such operations and execute such works in the development and production area as are necessary for, or in connection with, any matter referred to in paragraph (a) or (b).

Term of petroleum production licence.

37. (1) A petroleum production licence, unless sooner determined by surrender or cancellation under this Act, shall continue in force—

(a) for a period of twenty years from the date of the grant of the licence where the commercial discovery relates to an oil field;

(b) for a period of thirty years from the date of the grant of the licence where the commercial discovery relates to a natural gas field;

(c) for any period for which the licence is renewed under section 39; and

(d) for any period added to the term of the licence pursuant to section 42(3).

(2) Notwithstanding the expiry of the term of a petroleum production licence, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of the development and production area where an application has been made for the grant or renewal of the licence in respect of that block, until—

(a) the Minister makes a decision; or

(b) the application lapses.

Application for renewal of petroleum production licence.

38. A holder of a petroleum production licence may apply for the renewal of the licence in accordance with the Regulations.

Renewal of petroleum production licence.

39. (1) Subject to subsections (2) and (3), on application made under section 38, the Minister may grant a renewal of the licence on such conditions as he deems fit.

(2) Upon receipt of an application for renewal in accordance with subsection (1), where in the opinion of the Minister after consultation with Cabinet, special circumstances exist which, in the national interest, justify the renewal of the petroleum production licence prior to the date of its

expiration, the Minister may grant the renewal at any time during the licence period.

(3) The Minister shall refuse to grant a renewal of a petroleum production licence where the licensee is in default unless in the opinion of the Minister, after consultation with Cabinet, special circumstances exist which, in the national interest, justify the granting of the renewal notwithstanding the default.

(4) A renewal of a petroleum production licence granted under this section shall take effect upon the expiration of the subsisting petroleum production licence.

(5) The period for which a petroleum production licence may be renewed shall not exceed ten years.

Surrender of petroleum licence.

40. (1) A licensee may make an application, in the form and manner prescribed by regulations, to surrender the production area subject to a petroleum production licence, not less than twelve months before the date on which the licensee intends the surrender to take effect.

(2) An application to surrender under subsection (1) shall –

(a) state the date on which the applicant intends the surrender to have effect;

(b) identify the production area to be surrendered;

(c) give particulars of the petroleum activities carried out since the licence was granted or last renewed, whichever is the latter;

(d) be supported by such records and reports in relation to the activities identified in paragraph (c) as the Minister may require;

(e) be supported by a decommissioning plan in accordance with Part IX.

(3) Subject to subsection (4), on the grant of an application made under subsection (1), the Minister shall issue a deed of surrender, either unconditionally or subject to such conditions relating to safety and best international industry standards and practices as may be specified in the deed.

(4) The Minister shall not issue a deed of surrender -

(a) to an applicant who is in default;

(b) to an applicant who fails to comply with any requirement of the Minister for the purposes of subsection (2)(d); or

(c) unless the provisions of Part IX are carried out to the satisfaction of the Minister.

(5) Where the Minister grants an application for the issue of a deed of surrender, the Minister shall immediately cancel the licence and issue the deed of surrender.

(6) The surrender of a production area shall not negate any liability of the licensee incurred before the date on which the surrender takes effect, and any legal proceedings that may have been commenced or continued against that licensee.

PART V
CANCELLATION AND FORCE MAJEURE

Cancellation.

41. (1) Subject to this section and section 42, where a licensee is in default the Minister may, by notice served on the licensee, cancel the licence.

(2) The Minister shall not cancel a licence under subsection (1), on the ground of a default unless—

(a) the Minister has given to the licensee a written notice of the intention to cancel the licence on the ground of the default;

(b) the Minister has, in the notice, specified a reasonable date before which the licensee may, in writing, submit any representation which the licensee wishes the Minister to consider; and

(c) the Minister, in consultation with the Cabinet, has taken into account—

(i) any action taken by the licensee to remove that ground or, where the default cannot be remedied, any offer by the licensee to the Minister of adequate compensation in respect of the default and any

action by the licensee to prevent the recurrence of similar grounds of default; and

(ii) any representation submitted to the Minister by the licensee pursuant to paragraph (b).

(3) The Minister shall not cancel a licence under subsection (1) on the ground that the licensee has failed to pay any amount payable by him under this Act, the licence or petroleum agreement if, before the date referred to in the notice issued under subsection (2)(b), the licensee pays the amount, together with any additional amount which may be payable under section 84.

(4) The Minister may, by notice served on a licensee, cancel the licence –

(a) where the company is adjudged insolvent; or

(b) an order is made, or a resolution is passed winding up the affairs of the company:

Provided that the Minister shall not cancel the licence if the winding up is for the purpose of a merger and the Minister has consented to the merger, or is for the purpose of restructuring and the Minister has been given notice of and approved the proposed restructuring.

(5) Subject to the provisions of a petroleum agreement, where two or more companies jointly constitute a licensee, the Minister shall not cancel the licence under subsection (4) in relation to only one or some of the companies constituting the licensee, if the remaining company or

companies satisfies the Minister that the company is, or the companies are, able to carry out the duties and obligations of the licensee.

(6) The Minister shall, on the application of a licensee, cancel by instrument, the petroleum production licence of the licensee either wholly or in relation to any block on such conditions as the Minister may specify in the instrument.

(7) On the cancellation of a licence, the rights of the licensee under the licence shall cease, but the cancellation shall not affect any liability incurred by the licensee before the cancellation and any legal proceedings that may have commenced or continued against the licensee notwithstanding the cancellation of the licence.

Force majeure.

42. (1) A failure on the part of a licensee to fulfil any condition of the licence or to meet any requirement of this Act or a petroleum agreement shall not be a breach of the licence, this Act or the agreement, to the extent that the failure results from an act of war, hostility, insurrection, pandemic or an exceptional, inevitable and irresistible natural phenomenon, or from any other cause prescribed in the licence or petroleum agreement as constituting *force majeure* for the purposes of this section.

(2) Where a licensee fails to fulfil any of the conditions of the licence because of the occurrence of circumstances of a kind referred to in subsection (1), the licensee shall immediately notify the Minister in writing giving particulars of the failure and its cause.

(3) Where a licensee is prevented from exercising any of the rights under the licence for any period because of the occurrence of

circumstances of a kind referred to in subsection (1), then such additional period, as may be determined by the Minister shall be added to the term of the licence.

(4) The licensee shall provide any further information that the Minister may request to make a determination under subsection (3).

(5) The Minister may refuse to agree to the addition of any period to the term of the licence if the licensee could, by taking any reasonable steps which were open to the licensee, have exercised those rights during that period notwithstanding any such occurrence.

(6) This section shall not apply in relation to a failure to meet an obligation, under this Act, a licence, or a petroleum agreement, to make any payment of royalty, annual charges or fees.

Delivery of data after cancellation, surrender or expiry of licence or permit.

43. Where a licence or permit is cancelled, surrendered, or expires, the person who was the licensee or holder of the permit immediately before the cancellation, surrender, or expiration of the licence or permit shall immediately deliver to the Minister, in a manner prescribed by regulations –

(a) all records with respect to the licence;

(b) all plans or maps of the licence area;

(c) all tapes, diagrams, profiles and charts of the licence area; and

(d) any other documents as the Minister may by notice require the licensee to deliver.

PART VI

UNITISATION

Unitisation.

44. (1) Where a petroleum reservoir discovered in a licensed area extends beyond the boundaries of the licensed area into one or more licensed areas of other licensees, the Minister may, for the purpose of ensuring optimum recovery and development of the petroleum and protection of the economic interests of the State, direct the holders of the respective licences that overlay the petroleum reservoir to enter into a unitisation agreement to coordinate development and production of the reservoir as a single unit.

(2) Upon discovery of the overlay of the petroleum reservoir under subsection (1), the licensee that discovered the overlay shall notify the Minister of the existence of such reservoir within a period to be prescribed by the Minister by regulations.

(3) The notice under subsection (2) shall include a technical report of the geological characteristics of the reservoir, and any studies, interpretations and well data that helped determine the boundaries of the reservoir.

(4) Upon receipt of the notice under subsection (2) the Minister shall notify the holders of the adjacent licence that overlay the petroleum reservoir of the extent of the overlay on their respective licences and give directions to enter into a unitisation agreement pursuant to subsection (1).

(5) The notice served under subsection (4) shall provide for the time reasonably necessary for the holders of the respective licence to

reach a mutually acceptable agreement for the development of the reservoir as a single unit and shall be submitted to, and approved by the Minister:

Provided that the Minister shall not approve a unitisation agreement submitted by the licensees where the Minister considers the agreement to be inconsistent with the provisions of this Act.

(6) Failure to submit a unitisation agreement under subsection (5) may result in the Minister establishing the terms and conditions under which unitisation shall be conducted.

(7) Where the holder of a petroleum licence identifies a reservoir that extends beyond the boundaries of the licence area, into an unlicensed area within the national territory, the Minister may direct the licensee to submit an application to the Minister to incorporate the unlicensed area that contains part of the reservoir identified by the licensee under this subsection.

Cross-border unitisation.

45. (1) Where a petroleum reservoir extends into the territory of a neighbouring State, the Minister in consultation with the Cabinet, may engage in discussions with the government of the neighbouring State for the unitisation of the cross-border petroleum reservoir.

(2) When negotiating a cross-border unitisation treaty with a neighbouring State the Government of Guyana, upon consultation with the licence holder, may make available, to a limited extent, under a confidentiality agreement, information about the cross-border reservoir or geological structure that may be considered confidential under this Act

and the respective petroleum agreement, to enable the determination of tract participation.

(3) The licensee shall submit to the Minister, petroleum data to assist with the cross-border reservoir determination of tract participation.

(4) No unitisation agreement shall be entered between the licensee and holders of rights to the cross-border petroleum reservoir in the neighbouring State until a unitisation treaty is entered into between the government of Guyana and the neighbouring State where part of the petroleum reservoir extends.

(5) Where rights to the cross-border petroleum reservoir are held by the same licence holders on both sides of the border, the Minister shall seek an independent tract determination process to ensure equitable allocation of the resources on the portion of the reservoir underlying the national territory of Guyana.

(6) Pursuant to subsection (5), the Minister may give direction to the licensee –

(a) to immediately share all data, interpretations and studies related to the discovery of the cross-border reservoir; and

(b) to provide an undertaking to refrain from developing the portion of the reservoir that extends into the territory of a neighbouring State until a cross-border unitisation treaty is entered into between the respective States.

PART VII

REVENUES AND FINANCIAL GUARANTEES

Rental.

46. (1) The holder of a petroleum exploration licence shall, in accordance with this Act or a petroleum agreement, pay annually to the State a rental for the exploration or appraisal area.

(2) The amount of the rental shall be specified in the licence or petroleum agreement.

(3) The licensee shall pay the rental on –

(a) the effective date of the petroleum exploration licence; and

(b) each anniversary date of the petroleum exploration licence while it is in force.

Bonus.

47. (1) The Minister may condition the grant of a petroleum exploration licence upon payment of a signature bonus by a licensee.

(2) Where a petroleum exploration licence is granted through competitive tender the minimum value of the signature bonus shall be established in the notice under section 8.

(3) Where a petroleum exploration licence is granted through direct negotiation the value of the bonus is the amount resulting from the negotiation process.

(4) The signature bonus shall not be cost recoverable.

Retention fee.

48. (1) Where the Minister approves an application for retention of a discovery under section 29, the licensee shall, in accordance with the licence or petroleum agreement, pay annually to the State a retention fee for the period of the retention of a discovery.

(2) The licensee shall pay the retention fee on –

(a) the date of the approval by the Minister of an application for retention of a discovery; and

(b) on each anniversary date of the retention period while the licensee retains the discovery under section 29.

Royalty.

49. (1) Subject to this Act, the holder of a petroleum production licence shall pay to the State, in accordance with this Act, the licence or a petroleum agreement, royalty in respect of the gross petroleum produced in the production area.

(2) Where royalty to be paid by a licensee is payable in kind, reference to "payment" shall be construed as reference to delivery of the petroleum and cognate expressions shall be construed accordingly.

(3) Where the holder of a petroleum production licence fails to pay any royalty due to the State by the due date, or any further time allowed by the Minister, the Minister may, by notice served on the licensee, prohibit the removal of any petroleum from the production area concerned, or from any other production area subject to a licence held by the licensee, until all outstanding royalty in arrears has been paid inclusive of interest accrued or until an arrangement has been made, and accepted by the Minister, for the payment of the royalty in arrears.

(4) Reference to "interest" in subsection (3) is to be applied at a rate of six percent per annum unless otherwise prescribed by the Minister.

(5) Any person who contravenes a notice under subsection (3) shall be guilty of an offence and shall, on summary conviction, be liable to a fine of twenty million dollars together with imprisonment for three years.

Remission of royalty.

50. (1) The Minister may, on application of a licensee, and after consultation with the Minister assigned responsibility for finance, by order—

(a) remit, in whole or in part, any royalty payable by the licensee; or

(b) defer payment of any royalty by the licensee on such conditions as the Minister may specify in the order.

Recovery of royalty.

51. (1) Royalty payable pursuant to section 49 is a debt due to the State.

(2) A certificate by the Minister certifying that a specified amount of royalty or penalty is payable by a licensee identified in the certificate shall, in any proceedings taken against that licensee for the recovery of any royalty or penalty, be received as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.

(3) Where royalty to be paid by a licensee is payable in kind, the price of the petroleum payable as royalty computed in accordance with the benchmark prescribed in a licence or petroleum agreement on the date on which the royalty became payable, and any penalty payable under

section 49 on account of the failure to pay the royalty by the date on which it became payable, may be recovered in accordance with subsections (1) and (2).

(4) The provisions of this section shall be without prejudice to any other provision of this Act.

Training fee.

52. (1) A petroleum exploration, petroleum production licence, or petroleum agreement shall provide for the annual payment of a training fee during the period of the licence or petroleum agreement.

(2) The training fee shall not be cost recoverable.

Financial support for environmental and social projects.

53. (1) A petroleum exploration licence, petroleum production licence or petroleum agreement may require a licensee to establish a programme of financial support for environmental, social and other projects to be funded by the licensee, which shall not be cost recoverable.

(2) The licence or petroleum agreement shall establish the terms of the programme and the amount of financial contribution payable by the licensee.

Financial assurance.

54. (1) The Minister may require such financial assurance as appears appropriate to the Minister to ensure that a licensee complies with this Act, the licence or petroleum agreement.

(2) In this section, "financial assurance" means one or more of the following specified in a licence or, where applicable, petroleum agreement –

(a) cash;

(b) a letter of credit from a bank, in the amount and on terms acceptable to the Minister;

(c) a guarantee in the form, on the terms and in the amount acceptable to the Minister from any person whose long-term unsecured obligations are rated equally with a bank by an internationally recognised credit rating agency;

(d) a performance bond in the form and on terms acceptable to the Minister.

PART VIII

APPLICATION OF TAX LAWS

Application of tax laws.

55. (1) The Minister assigned responsibility for finance may, by order subject to affirmative resolution of the National Assembly, direct that the Income Tax Act, the Value Added Tax Act and the Corporation Tax Act shall apply to, or in relation to, a licensee subject to such modifications and qualifications as may be specified in the order.

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Cap. 81:05
Cap. 81:03

(2) The licensee shall be exempted from -

(a) the Property Tax Act; and

(b) the Capital Gains Tax Act

Cap. 81:21
Cap. 81:20

PART IX

DECOMMISSIONING

Decommissioning obligation.

56. Following the expiration, surrender, or termination of a petroleum exploration or production licence under this Act or cessation of petroleum operations in an area, the licensee shall be solely responsible for -

(a) the removal or all property used in petroleum operations from the affected area subject to any arrangements for future use of any property under an approved decommissioning plan; and

(b) remediate the affected area in accordance with best international industry standards and practices.

Decommissioning plan and budget.

57. (1) The licensee shall submit to the Minister for approval a proposed decommissioning plan and budget –

(a) no later than two years before the expiration of a petroleum exploration licence, or the relinquishment of a part of the licence area;

(b) no later than two years before the anticipated cessation of production under a petroleum production licence.

(2) Where the petroleum exploration licence or petroleum production licence is determined by surrender or cancellation under this Act earlier than its scheduled expiration date, the licensee shall submit to the Minister a decommissioning plan and budget no later than ninety days after the determination of the licence.

(3) Notwithstanding the requirement of section 56 (b) the holder of a petroleum production licence shall submit a preliminary decommissioning plan and budget as part of the development plan approved by the Minister when granting the petroleum production licence under section 32.

Content of decommissioning plan.

58. (1) A preliminary decommissioning and a decommissioning plan under section 57 may include options for the –

(a) complete and total removal of all wells, facilities and assets used in the conduct of petroleum operations;

(b) partial removal, removal in place, or decommissioning of offshore platforms and other facilities for use as reefs or for any other applicable purpose;

(c) reuse or relocation of the facility for use in petroleum operations at another location; or

(d) alternative use of petroleum infrastructure for purposes other than petroleum operations.

(2) A preliminary decommissioning plan submitted to the Minister for approval under section 57(3) shall include –

(a) a detailed description of the decommissioning operations to be undertaken by the licensee;

(b) a description of the proposed methods of removal and disposal;

(c) an analysis of alternative removal and disposal methods considered in preparing the plan including cost estimates and the rationale for selecting the preferred methods;

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(d) an environmental impact assessment in compliance with Environmental Protection Act; and

(e) any other matter that may be prescribed by regulation or direction of the Minister.

Approval of decommissioning plan.

59. (1) The Minister shall make a decision on whether to approve, conditionally approve, or reject a decommissioning plan submitted by the holder of an exploration licence or production licence under section 57.

(2) The Minister, in making a decision whether to approve or reject a decommissioning plan, shall consider -

(a) safety and environmental factors;

(b) technical and economic aspects;

(c) disposal alternatives;

(d) impact on development of other petroleum operations, or sources of energy;

(e) impact on local communities, fisheries and agriculture; and

(f) other national interests.

(3) Where the Minister rejects a decommissioning plan submitted by the holder of a petroleum exploration or production licence, the Minister shall serve notice on the licensee providing the reasons for

rejection of the plan and directing the licensee to resubmit a new or amended decommissioning plan in accordance with the conditions and terms included in the notice.

Temporary and permanent abandonment of wells.

60. (1) The holder of an exploration or production licence shall permanently plug and abandon all wells in the licence area within one year of the expiration of the licence, cessation of petroleum operations or termination of said licence.

(2) Permanent plugging and abandonment operations shall initiate after six months of inactivity at the production site in accordance with best international industry standards and practices.

(3) In the case of wells that are part of the infrastructure associated with an offshore oil and gas facility, the decommissioning programme for the offshore facility must contain –

(a) a listing of all active, suspended and previously plugged and abandoned wells associated with the facility; and

(b) a description of the methods used or proposed to be used to plug and abandon the wells.

(4) At the request of the licensee, the Minister may allow the temporary plugging and abandonment of wells when it is necessary for proper development and production of petroleum reservoir in the licence area.

(5) Following the completion of a well plugging and abandonment programme, the licensee shall submit a report to the Minister in accordance with section 65.

Decommissioning fund.

61. (1) The holder of a petroleum production licence shall establish a decommissioning fund for the purpose of ensuring adequate funding to implement decommissioning operations upon the earlier of cessation of production or the subsequent expiry of the production licence.

(2) Contributions to the decommissioning fund shall be paid during production operations and in accordance with the Regulations.

(3) The annual contribution to the decommissioning fund shall ensure that the full estimated cost of decommissioning is paid to the fund two years prior to the anticipated commencement of decommissioning and decommissioning operations in the production area.

(4) The terms and conditions for administration of the fund and disbursement of payments for the recovery of costs shall be agreed between the Minister and the licensee under the terms of the licence or petroleum agreement in accordance with best international industry standards and practices including –

(a) maximising economic recovery of petroleum resources; and

(b) protection from licensee default and government expenditure through -

(i) acceptable forms, and custody of, fund security; and

(ii) trigger date, security accumulation rates and overall assessment mechanisms based upon individual field and development circumstances.

Partial decommissioning or alternate use.

62. (1) The Minister shall consult with the relevant State agencies and may approve partial structure removal or toppling in place of an offshore facility for conversion to an artificial reef where the proposed plan does not present navigational obstacles.

(2) Pursuant to the terms of the licence or petroleum agreement, and subject to an approved decommissioning plan, the licensee may reuse the facilities for other petroleum operations or for additional energy or other related purposes, subject to verification of the facilities as suitable for reuse by an independent internationally recognised certified verification body.

(3) Where alternate use of the offshore facility is authorised by the Minister, the holder of the alternate use authorisation shall bear responsibility for all decommissioning obligations that accrue following the issuance of the alternate use authorisation.

Failure to submit a decommissioning plan or meet decommissioning obligations.

63. Failure to submit a decommissioning plan and meet the decommissioning obligations under this Act, a licence or petroleum agreement shall not relieve the licensee of liability for the cost of decommissioning.

Transfer of responsibility for decommissioning.

64. (1) The Minister may postpone the scheduled decommissioning of facilities and infrastructure following the expiry or termination of a petroleum production licence –

(a) to extend the useful life of the facilities and infrastructure by using the facilities for other petroleum operations; or

(b) to use the facilities for energy or other related purposes.

(2) Where decommissioning of petroleum installations is postponed under subsection (1), the responsibility and liability for decommissioning of facilities at the end of their useful life may be transferred in whole or in part to the beneficiary of the alternate use.

(3) Where the responsibility and liability for decommissioning of facilities is transferred in whole or in part under subsection (2), the responsibility for the balance of the decommissioning fund is transferred to the beneficiary of alternate use.

(4) The licensee who was originally responsible for decommissioning obligations before the issuance by the Minister of the alternate use authorisation under subsection (1), shall be responsible for the decommissioning obligations that accrued before the alternate use authorisation, as well as for any decommissioning obligations that accrue subsequent to the Minister's decision under subsection (1) to the extent that they relate to continued use of the facilities by the licensee under this Act.

Post decommissioning.

65. (1) Upon completion of decommissioning obligations under this part, the licensee or beneficiary of the alternate use of petroleum facilities shall submit to the Minister a post decommissioning report and an independent verification certificate issued by qualified verification bodies.

(2) Prior to final acceptance of the Post Decommissioning Report, the Minister shall have ninety days to review and accept the report.

(3) Pursuant to subsection (2), the Minister may consult with other State agencies to conduct independent verification and monitoring of the area to ensure that the affected area has been effectively decommissioned in accordance best international industry standards and practices at the time of the review.

(4)Where there is any discrepancy between the report and the independent findings obtained by the Minister, the licensee shall be required to complete the required decommissioning obligations to the acceptance of the Minister.

PART X

TRANSPORTATION AND STORAGE

Transportation and storage of petroleum by pipeline.

66. (1) The Minister may grant rights of way through the national territory for the operation, transportation, and storage of petroleum by pipelines under such terms and conditions prescribed by regulations.

(2) Operation, transportation, and storage of petroleum by a pipeline may not be carried out without a licence granted by the Minister, unless such rights have been incorporated into an approved development plan and conferred by a production licence or petroleum agreement.

Third party access.

67. (1) Where there is excess capacity in the pipeline, the Minister may direct that an owner or operator of a facility for the operation, transportation, or storage of petroleum grant access to third parties for resource management, investment risk, efficient operation of facilities and infrastructure, economic or environmental impact and other national interest considerations.

(2) Where the Minister determines that a mutual benefit can be achieved by the construction of common facilities and infrastructure the licensee shall use best efforts to reach an agreement with other licensees for the construction and operation of the common facilities.

(3) The Minister may prescribe subsidiary legislation to ensure the application of tariffs for access to transportation or storage infrastructure.

PART XI

DISPOSAL OF PETROLEUM, DOMESTIC SUPPLY AND EXPORTS

Disposal of petroleum.

68. The holder of a petroleum production licence may sell, export or otherwise dispose of their entitlement of petroleum subject to this Act, a licence, a petroleum agreement or any other applicable laws.

Marketing of State's share of production.

69. The Minister may require the licensee to market outside of Guyana on competitive terms, all or part of the State's share of petroleum subject to terms established under a licence or petroleum agreement.

Domestic supply.

70. (1) The Minister may require the holder of a petroleum production licence to supply petroleum to the domestic market when the needs of the domestic market exceed the State's entitlement of petroleum.

(2) The share of a petroleum production licence holder's contribution to the domestic market obligation shall be *pro rata* to the share of its entitlement to the petroleum produced in Guyana by the licensee.

(3) The volume of petroleum which the licensee shall be required to sell under this section shall not exceed its share of petroleum entitlement under the licence or petroleum agreement.

(4) The Minister shall give notice to the licensee for the domestic supply obligation under the terms of the Licence or petroleum agreement.

PART XII

CARBON DIOXIDE STORAGE

Application for Geological storage licence for carbon dioxide.

71. The Minister may grant a geological storage licence for carbon dioxide subject to such terms and conditions prescribed by regulations.

Rights of geological storage licence for carbon dioxide.

72. (1) A geological storage licence for carbon dioxide grants the licensee the exclusive right to –

(a) explore for potential carbon dioxide storage sites in the area as specified in the licence; and

(b) develop underground carbon dioxide storage sites, inject and store carbon dioxide and undertake operations incidental to carbon dioxide storage as specified in the licence.

(2)The holder of a licence granted under section 6 holds a preferential right to obtain a geological storage licence for carbon dioxide for the storage sites identified under the petroleum exploration licence or petroleum production licence subject to such terms and conditions prescribed by regulation.

PART XIII

SAFETY, SECURITY AND EMERGENCY RESPONSE

Safety requirements, practices, and standards.

73. (1) The Minister shall make regulations to govern the safety of petroleum operations carried under this Act.

(2) Notwithstanding the generality of the foregoing, the Minister may make regulations for -

(a) protecting the health, safety and welfare of persons engaged in oil and gas operations and communities;

(b) securing the safe design, construction and operation of all facilities;

(c) securing safe and environmentally sound decommissioning operations;

(d) maintaining a high level of safety at all facilities;

(e) promoting orderly exploration, appraisal, development, and production of petroleum;

(f) preventing damage to or waste of any natural resource, property, or the environment;

(g) promoting a safety culture and continuous improvement of safety measures in compliance with this Act, applicable laws related to health safety and environment, and best international industry standards and practices.

(3) In furtherance of the purposes of this Act, the holder of a licence or permit shall -

(a) ensure that the operations permitted by the licence or permit are conducted in a safe, competent and efficient manner; and

(b) ensure that any risks inherent in the operations permitted by the licence or permit are addressed such that those risks are eliminated where possible or are kept as low as reasonably practicable.

Facilities and infrastructure.

74. (1) The licensee shall maintain in safe and good condition of all facilities, infrastructure, equipment and other items or works, used or to be used in petroleum operations.

(2) Where the Minister has reasonable grounds to believe that the present state of the licensee's facilities or infrastructure, or the conduct of any operation, poses an unacceptable risk of loss of life, personal injury, pollution or major damage to facilities, the Minister may require the licensee to -

(a) take remedial measures within such reasonable period as may be determined by the Minister;

(b) discontinue petroleum operations in whole or in part until the completion of such remedial measures.

(3) Where the licensee does not act promptly under subsection (1) and (2) within a specified time by the Minister, the Minister shall, after giving the licensee reasonable notice, take any remedial actions which are necessary in accordance with good international petroleum industry practice and the costs of such actions taken by the Minister shall be borne by the licensee.

Risk assessment and safety management system.

75. (1) A licensee shall ensure risks inherent in petroleum operations are eliminated or are kept as low as reasonably practicable.

(2) Pursuant to subsection (1), a licence or petroleum agreement shall require the implementation by the licensee of risk assessment and safety management systems with respect to each activity and facility that poses a risk of personal injury, loss of life, pollution or major damage to facilities.

(3) A risk assessment under this section shall comprehensively

identify the risks inherent in the licensee's petroleum operations, including –

(a) the health, safety and environmental risks related to design, construction, installation, operation, inspection, maintenance and decommissioning of all facilities and infrastructure;

(b) risks to personnel in the working environment including those related to the use of all facilities, plants, equipment, materials and substances used in petroleum operations; and

(c) risks to personnel in accessing or leaving work locations for petroleum operations.

(4) The risk assessment shall –

(a) identify and assess factors contributing to risks of major accident events and environmental damage; and

(b) assess the potential mitigating impact that operations and modifications of facilities may have on major accident events and environmental risks.

(5) The licence or petroleum agreement shall provide for a safety management system to comply with applicable provisions of environmental, labour, safety, and social protection, maritime and other applicable national interests and best international industry standards and practices.

Emergency preparedness and response.

76. (1) A licensee conducting petroleum operations under this Act shall diligently institute and maintain –

(a) appropriate preventative measures to reduce the risk of accident or emergency in the course of petroleum operations;

(b) emergency preparedness and response procedures and control measures appropriate to each facility that are aligned with national and regional oil spill emergency response plans and undergo regular or periodic testing for all tiers of the response.

(2) The emergency response plans shall comply with all applicable laws and best international industry standards and practices.

Security.

77. (1) The operator of a licence holder's petroleum facilities and infrastructure shall implement and maintain –

(a) preventive security measures designed to protect facilities and wells from threats and attacks; and

(b) contingency plans to deal with the occurrence of any such attacks.

(2) The preventive security measures under this section shall include measures to control the presence of personnel, equipment and goods at a facility or well.

PART XIV

RESTRICTION ON RIGHTS OF LICENSEE

Restriction on exercise of rights in relation to certain areas.

78. (1) A licensee shall not exercise any of his rights under this Act or a licence –

(a) except with the written consent of the President, in respect of land that is—

(i) subject to national security or defense purposes;

(ii) dedicated as a place of burial or which is a place of religious significance;

(iii)set apart or required for such public purpose, other than a mining development, as may be prescribed; or

(iv)part of the shore of the sea and of tidal navigable rivers;

(b) except with the written consent of the lawful occupier thereof, in respect of—

(i) any land which is the site of, or which is within two hundred metres or such greater distance as may be prescribed of, any inhabited, occupied or temporarily unoccupied house or building;

(ii) any land within fifty metres or such greater distance as may be prescribed of any land which has been cleared or ploughed or otherwise bona fide prepared for the growing of, or on which there are growing, agricultural crops:

Provided that the land described in paragraph (b)(i) and (ii) is not State land, Government land, land wholly owned by State entities including companies or corporations or in which the controlling interest is vested in the State or any land identified by law, or a plan drawn and approved in accordance with any law for reserves;

(iii)any land from which, during the year immediately preceding, agricultural crops have been reaped:

Provided that nothing in this section shall prevent the Minister from obtaining written consent from any landowner or lawful occupier of any land described in subsection (1)(b);

(c) in respect of any land within two hundred metres or such greater distance as may be prescribed of the boundaries of, any township, except with the written consent of the local authority having control over the township;

(d) in respect of any land within two hundred metres or such greater distance as may be prescribed of the boundaries of, any village, or of any land set apart or required for a village, a new village or a village extension, except with the written consent of the Minister;

(e) in respect of any area which is subject to a licence, lease or concession under the Mining Act, except with the written consent of the holder of the licence, lease or concession; or

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(f) in respect of any prescribed land or area except with the consent of such persons as may be prescribed.

(2) Any consent under subsection (1) may be given unconditionally or subject to such conditions as are specified in the instrument of consent.

(3) A licensee may, with the consent of the Minister, use the land exempted under the proviso to subsection (1)(b)(i) and (ii) to land, install and operate any pipelines or submarine, fibre optics or terrestrial cables or similar infrastructure and shall maintain, inspect, repair or renew such pipelines, cables or similar infrastructure.

Distance from other infrastructure.

79. A licensee shall not carry on any drilling operations at any point within two hundred metres of a railway, dam, reservoir, canal, or other public work except with the written consent of the President or of any person authorised by the President.

Overlapping mineral rights.

80. (1) A licensee shall use best efforts to conduct petroleum operations in a manner that does not unreasonably interfere with, obstruct, or disrupt prospecting or mining operations under a mining right other than petroleum that predates the petroleum exploration or production licence and overlaps the area subject to the petroleum exploration licence or petroleum production licence.

(2) Where the licensee and the holder of the mining right cannot agree on arrangements to govern mutual access to and use of any areas where their respective rights overlap, the Minister may determine any reasonable arrangements for shared use of the surface provided that the shared use does not pose risks to the safety of petroleum operations and mining operations.

(3) Where there is a discovery of natural resources other than petroleum in a licence area under this Act, and both operations may not be pursued simultaneously due to incompatible nature of overlapping

mineral rights, the Minister shall decide which of the operations shall be suspended and on what terms.

(4) The decision under subsection (3) shall take into consideration the nature of the discovery, the investment made, the duration of operations and volume of mineral and petroleum resources, their economic and social impact, and the national interest.

(5) The holder of mineral or petroleum rights whose operations are suspended under subsection (3) may request an extension of the term of the mining or petroleum licence, and the extension shall be for a period equivalent to the duration of the suspension ordered under subsection (3).

Accommodation of other uses of land.

81. (1) A licensee shall conduct petroleum operations in a manner that minimises to a reasonable extent any impact on the interests of any lawful occupier of land affected by such petroleum operations.

(2) Petroleum operations in an area under a petroleum exploration licence or a petroleum production licence shall not affect the existing rights of any lawful occupier of land to graze livestock upon or to cultivate the surface of the land, except insofar as such uses of land may unreasonably interfere with the petroleum operations.

(3) The lawful occupier of any land in a development and production area shall not erect any building or structure in the area without the consent of the holder of the petroleum production licence provided that where the Minister considers that the consent is being unreasonably

withheld the Minister may, in writing, give that consent to the lawful occupier subject to any conditions imposed by the Minister.

Fishing and navigation.

82. A licensee shall not carry on petroleum operations under this Act that interferes with fishing or navigation lawfully being carried on without first notifying and obtaining the approval of the Minister and any other relevant State agency.

Compensation.

83. (1) Where, in the course of exploration or production operations in any parcel of land in the licence area, any damage is caused or done to the parcel of land or the interest of the lawful occupier, or to any cultivation or building thereon, as a result of those operations, the licensee shall be liable to pay fair and reasonable compensation to the holder of any right, title or interest in or over that parcel of land in accordance with his right, title or interest.

(2) The compensation payable under subsection (1), shall be such sum as may be agreed to between the licensee and the person entitled to receive the compensation and, if no agreement can be arrived at between them, such sum as may be determined by a court of competent jurisdiction on application made of the licensee or the person entitled to receive the compensation.

PART XV

OFFENCES AND PENALTIES

Failure to comply with provisions of the Act.

84. (1) Any person who fails to comply with any provision of this Act or licence, or any subsidiary legislation made, or any direction given, under this Act and for which no penalty has been prescribed shall be liable, on summary conviction, to a fine of not less than five million dollars.

(2) Any person who knowingly and willfully –

(a) violates any provision of this Act or licence, or subsidiary legislation made, or direction given under this Act;

(b) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act; or

(c) reveals any data or information required to be kept confidential by this Act,

shall be liable, on summary conviction, to a fine of not less than thirty million dollars and imprisonment for three years.

(3) Where an offence which has been committed by a company is proved to have been committed with the consent of, or negligence of, a director, secretary or other similar officer of the company, or any person who was purporting to act in any such capacity, the person, as well as the company, shall be guilty of that offence and shall be liable to the same penalty.

Orders of forfeiture on conviction for certain offences.

85. (1) Where a person is convicted of an offence under this Act, the court may, in addition to any other penalty imposed, make—

(a) an order for the forfeiture of any vehicle, aircraft, vessel, machinery or equipment used in the commission of the offence; and

(b) an order—

(i) for the forfeiture of petroleum produced, in the course of the commission of the offence;

(ii) for the payment to the State, by the person convicted, of an amount equal to the proceeds of the sale of the petroleum produced; or

(iii) for the payment to the State, by the person convicted, of the value at the wellhead, assessed by the court, in respect of the quantity of petroleum produced or for the payment of such a part of that amount as the court, having regard to all the circumstances of the case, considers fit.

(2) Where the court is satisfied that an order made under subsection (1)(b)(i) cannot be enforced for any reason, the court may, upon application made by the Minister, set aside the order and make an order referred to in subsection (1)(b)(ii) or (iii).

Penalty for late payments.

86. (1) Where the liability of a person under this Act, a licence or, where applicable, a petroleum agreement to pay an amount is not discharged by the date when the amount became due, there shall be payable by that person, by way of a penalty, an additional amount calculated at the rate of one-third of one per cent per day to be

compounded, upon the unpaid balance, to be computed from the date on which that amount was due and until it is fully paid.

(2) Where royalty to be paid by a licensee is payable in kind, references to amount in this section shall be construed as a reference to the price of the petroleum payable as royalty computed on the date it is due in accordance with the benchmark prescribed in a licence or petroleum agreement.

PART XVI

MONITORING, SUPERVISION, INSPECTION AND VERIFICATION

Monitoring and supervision.

87. (1) The Minister, or any person or government agency duly authorised by the Minister, shall carry out oversight, inspection, research, monitoring and enforcement actions as are necessary for the implementation of the provisions of this Act.

(2) In carrying out the functions under subsection (1) the Minister or the appointee of the Minister may, at all reasonable times—

(a) enter any area, structure, building, vehicle, vessel or aircraft which, in the opinion of the Minister or his appointee, has been, is being, or is to be, used in connection with petroleum operations;

(b) inspect and test, or cause to be tested by a qualified person, any machinery or equipment which, in the opinion of the Minister or the appointee of the Minister, has been, is

being, or is to be, used in connection with any of the operations referred to in paragraph (a);

(c) take or remove for the purpose of analysis or testing or for use in evidence in connection with an offence under this Act samples of petroleum, water or other matter or evidence from a well;

(d) issue directions to, and impose restrictions on, a licensee or any person employed by the licensee in, or in connection with, any of the operations referred to in paragraph (a), with respect to the health and safety of the persons so employed by the licensee;

(e) direct the licensee in writing to effect –

(i) the cessation of any of the operations referred to in paragraph (a) on or in any area, structure or building being used in connection with any such operations, and the withdrawal of all personnel from the area; and

(ii) the discontinuance of the use of any machinery or equipment if in the opinion of the Minister the area, structure or building, or machinery and equipment is unsafe, unless and until such action as is necessary for safety and specified in the direction is taken by the licensee and completed;

(f) make such examinations and inquiries as are necessary to ensure that the provisions of this Act, or any directions issued, restrictions or conditions imposed, or orders made under this Act, are being complied with; and

(g) obtain and record statements from witnesses, and appear at, or conduct, inquiries regarding accidents occurring in

the course of any of the operations referred to in paragraph (a), and appear at inquests, and call and examine witnesses, and cross-examine witnesses.

(3) A licensee, contractor, or any authorised agent of the licensee or contractor shall provide the Minister, or the person authorised by the Minister under subsection (1), with reasonable facilities and assistance regarding transportation and accommodation to enable the effective and timely performance of the monitoring, supervision, inspection and verification functions under this section.

PART XVII

MISCELLANEOUS

Transfer of rights.

88. A licensee shall not, without the written approval of the Minister, assign any of the rights under a licence or petroleum agreement, whether in whole or in part, to a third party or an affiliate.

Control of body corporate not to be given without consent of Minister.

89. (1) A holder of a licence shall not, without the prior consent in writing of the Minister—

(a) register the transfer of any share or interest in the company to any particular person or nominee of that person; or

(b) enter into any agreement or arrangement with any particular person,

where the effect of doing so would be to give, in the case mentioned in paragraph (a), to the particular person or, in the case mentioned in

paragraph (b), the particular person or any other person, control of the company.

(2) The Minister may, on application made to the Minister in writing for his consent under this section, give consent to the change of control of the company where the Minister considers that national interest would not be prejudiced.

(3) Pursuant to subsection (2), the Minister may request such information as the Minister considers necessary to make a decision on the application.

(4) For the purposes of this section –

(a) a person shall be deemed to have control of a company –

(i) where the person or nominee of the person holds, or the person and the nominee hold, a total of twenty per cent or more of the issued equity shares in the company;

(ii) where the person is entitled to appoint, or prevent the appointment of, half or more than half of the directors of the company;

(iii)where the person is entitled to exercise, or control the exercise of, the right to cast votes in respect of not less than two-fifths of the total number of votes in respect of the issued equity shares in the company; or

(iv) where the person through board membership, contract, trust or other fiduciary relationship, or otherwise, has the ability to direct the activities of the body corporate via exercise of such rights.

State pre-emptive right.

90. (1) The State, any agency of the State, or any company wholly or partially owned or controlled by the State shall have the right to acquire, on the same terms as those proposed by a licensee, such rights or portion thereof as a licensee proposes to transfer.

(2) The Minister may by regulations prescribe periods of notice and exercise of such right.

Restriction on flaring and gas venting.
Cap. 20:05

91. A licensee shall not flare or vent petroleum except in accordance with the Environmental Protection Act and regulations made under this Act.

Power to obtain information relating to exploration or production Operations.

92. (1) The State has an inalienable ownership right to petroleum data obtained as a result of petroleum operations authorised under this Act.

(2) Notwithstanding the provision of subsection (1), the Minister may enter into commercial arrangements with a company authorised to carry out a geological or geophysical survey under section 18, on terms and conditions that enable the commercialisation of such data and sharing of revenue with the State.

(3) Ownership of petroleum data obtained under a petroleum exploration licence or petroleum production licence is held jointly by the

State and the licensee and becomes the sole property of the State with respect to any area which ceases to be part of the licence area, whether as a result of relinquishment, cancellation or surrender of a licence or otherwise in accordance with the terms of a petroleum agreement.

(4) Subject to a licence or a petroleum agreement, the Minister may establish the terms and conditions for disclosure and sharing of data and information.

(5) Where the Minister has reason to believe that a person is in possession of information or data relating to petroleum operations, or the volumes or value of petroleum produced, it may, by notice, require that person –

(a) to supply to the Minister the information or data specified in the notice; and

(b) to answer questions relating to petroleum operations or the volume or value of petroleum produced.

(6) Any person required to comply with subsection (5) who—

(a) refuses or fails to comply; or

(b) knowingly or recklessly furnishes information or data which is false or misleading,

commits an offence and shall be liable, on summary conviction, to a fine of ten million dollars together with imprisonment for one year.

Liability and indemnity.

93. (1) A licensee shall keep the State indemnified at all times against all actions, claims and demands that may be brought or made against the

State by reason of any action, omission or failure to act by the licensee in the exercise or purported exercise of the rights of the licensee under this Act, the licence or petroleum agreement.

(2) A licensee shall maintain such insurance as required by the applicable laws of Guyana.

Litigation against the State and licensee.

94. (1) In any action arising out of petroleum operations pursuant to this Act or related legislation that impacts the State or the interest of a licensee, the Minister and the licensee shall be named as a party as of right.

(2)Nothing in this act shall be construed to limit or restrict the power and authority of the State in any action affecting the State in accordance with the State Liability and Proceedings Act.

Cap. 6:05

Directions to give effect to treaty.

95. The Minister may –

(a) for the purpose of giving effect to any treaty agreement, convention or other arrangement to which Guyana is a party; or

(b) in the interests of peace and good relationship with other States,

issue to any licensee directions in respect of all or any of the following matters—

(i) restricting the operations in the exploration or development and production area to which the licence

relates in such manner or to such extent as may be specified in the direction;

(ii) prohibiting the licensee from carrying on any operations in the entire exploration or production area or such part thereof as may be specified in the direction.

Power to make subsidiary legislation.

96. The Minister may make subsidiary legislation for the purpose of giving effect to the provisions of this Act.

PART XVIII

REPEAL AND SAVINGS

Repeal.
Cap. 65:04
Cap. 65:05

97. (1) The Petroleum (Exploration and Production) Act and the Petroleum (Production) Act are repealed.

Savings.
Cap. 65:04

98. Notwithstanding the repeal of the Petroleum (Exploration and Production) Act, all subsidiary legislation, directions and appointments made under that Act and in force immediately prior to this Act, continue as if made under this Act.

Passed by the National Assembly on the 9th August, 2023.

S.E. Isaacs,

Clerk of the National Assembly.

(BILL No. 16/2023)