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CHAPTER 227

PETROLEUM (EXPLORATION AND PRODUCTION)

Act 13 of 1993

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PETROLEUM (EXPLORATION AND PRODUCTION)

An Act to make provision with respect to searching for and producing petroleum and for matters connected therewith.

PART 1 – PRELIMINARY

1. Interpretation

(1) In this Act, unless the context otherwise requires –

"authorized officer", in relation to any provision of this Act, means a person designated as such under section 5(2) for the purposes of this Act or for the purposes of that provision;

"block" means a block constituted as provided in section 4 and includes part of a block as so constituted;

"Commissioner" means the Commissioner for Petroleum Exploration and Production appointed pursuant to section 5(1);

"company" means a corporate body incorporated under the Companies Act [Cap. 191];

"conditions" includes terms, prohibitions, limitations and stipulations;

"corporation" means a corporate body incorporated in or outside the Republic, whether by Act or otherwise, but does not include a company;

"development operations" means operations carried out in or for the purpose of producing petroleum;

"discovery block", in relation to a prospecting area, has the meaning assigned by section 26(6);

"drilling" means the perforation of the earth's surface, whether the hole is vertical, inclined or horizontal, and includes all operations for preventing the collapse of the sides of the hole or preventing the hole from becoming filled by extraneous material (including water) and the filling of wellheads, coring and logging, and any operations incidental to the foregoing;

"exploration" means exploration for the purpose of discovering petroleum, and includes geological, geophysical and geochemical surveys, exploration drilling and appraisal drilling in land in the Republic, but does not include development drilling or operations carried out in or for the purpose of producing petroleum;

"good oil-field practices" means all those things that are generally accepted as good, safe and efficient in the carrying on of exploration or, as the case may be, of development operations;

"holder", in relation to a licence, means the person to whom the licence is granted and includes every person to whom the licence is lawfully assigned;

"in default" means in breach of any provision of this Act or of any condition of a licence, or of any provision of a relevant agreement;

"land" includes –

(a) land beneath water;

(b) the seabed and the subsoil beneath the territorial sea; and

(c) the seabed and the subsoil of the continental shelf or beneath the waters of the exclusive economic zone;

"licence" means a petroleum prospecting licence or a petroleum production licence, or both, as the context requires;

"licensee" means the holder of a licence;

"Minister" means the Minister for the time being responsible for petroleum exploration and production, and includes any Minister acting on his behalf;

"natural gas" means gas obtained from a well and consisting primarily of hydrocarbons;

"petroleum" means –

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

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

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

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

"petroleum production licence" means a licence granted under section 28;

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

"prospecting area" means an area constituted by a block that is, or by blocks that are, subject to a petroleum prospecting licence;

"prospecting operations" means operations carried on for the purpose of exploration;

"relevant agreement" means an agreement of the kind referred to in section 11 which, by its terms, is to have effect in relation to the application to a particular licensee of any provision of this Act in which the expression occurs or to which the expression relates;

"the regulations" means regulations made under section 65;

"Republic" means the Republic of Vanuatu;

"this Act" includes the regulations;

"well" means a hole in land made by drilling in connection with prospecting or development operations, but does not include a seismic shot hole.

(2) In this Act, a reference to "land in the Republic" includes a reference to land within the area of the continental shell, the territorial sea or the exclusive economic zone, of the Republic, as lawfully declared or otherwise determined from time to time.

(3) In this Act, a reference to a year of the term of a licence is a reference to a period of one year commencing on the date from and including which the licence has effect and on any anniversary of that date.

(4) In this Act, a reference to the conditions of a licence is a reference to the conditions of the licence as modified from time to time.

2. Vesting of petroleum in the Republic

(1) The property in, and control over, petroleum in its natural condition in land in the Republic is vested in the Republic.

(2) Subject to section 61, no person shall carry on in any land in the Republic prospecting or development operations, except under, and in accordance with, a licence issued under this Act.

3. Service of documents

(1) A document or notice required or permitted to be served on, or given to, a person under or for the purposes of this Act, may be served or given –

(a) in the case of an individual other than the Minister or the Commissioner, by serving it personally upon the individual or by sending it by post to him at his usual or last known place of abode or business;

(b) in the case of the Minister or the Commissioner, in the manner prescribed;

(c) in the case of a body corporate –

(i) by leaving it at the registered or principal office of the body corporate with some individual apparently employed by the body corporate and apparently not less than sixteen years of age;

(ii) by sending it by post to the body corporate at the registered or principal office of the body corporate; or

(iii) by delivering it to some individual in the employment or acting on behalf of the body corporate who is authorized by the body corporate, or agrees to accept service of or to receive the document or any document.

(2) For the purposes of subsection (1)(c), the principal office of a body corporate incorporated outside the Republic is its principal office within the Republic.

(3) Where a person has more than one place of abode or business a document or notice may be served on, or given to, the person under this section at any of those places.

(4) Where a document or notice is sent by post pursuant to this section, service or notice is deemed to have been effected or given under this section, unless the contrary is proved, at the time at which the document or notice would be delivered in the ordinary course of post.

4. Constitution of blocks

(1) For the purposes of this Act, the surface of the earth is deemed to be divided into blocks –

(a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of six minutes of longitude or a multiple of six minutes of longitude; and

(b) by the equator and by parallels of latitude that are at a distance from the equator of six minutes of latitude or a multiple of six minutes of latitude;

each of which is bounded by portions –

(c) of two of those meridians that are at a distance from each other of six minutes of longitude; and

(d) of two of those parallels of latitude that are at a distance from each other of six minutes of latitude.

(2) Where any block as so constituted would be partly inside and partly outside the geographical area of land in the Republic, the block shall be treated as being constituted by the part that is inside the area.

PART 2 – ADMINISTRATION

5. Commissioner for Petroleum Exploration and Production, etc.

(1) There shall be appointed by the Public Service Commission a public servant to be known as the "Commissioner for Petroleum Exploration and Production".

(2) There shall be appointed by the Public Service Commission such number of public servants as authorized officers as may be necessary for the administration of this Act.

6. Performance of Commissioner's functions, etc.

Anything required or permitted by this Act to be done by the Commissioner may be done by any authorized officer who is authorized either specially or generally, in that behalf in writing by the Commissioner, and for the purpose of doing so that public servant is deemed to be the Commissioner.

7. Power of Commissioner and authorized officers

(1) For the purposes of this Act, the Commissioner or an authorized officer, at all reasonable times –

(a) may enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be used in connection with prospecting or development operations;

(b) may inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be used in connection with any of the operations referred to in paragraph (a);

(c) may take or remove for the purpose of analysis or testing or for use in evidence in connection with an offence against this Act, samples of petroleum or other substances from any area where any of the operations referred to in paragraph (a) are being carried on;

(d) may inspect, take extracts from, and make copies of, any document relating to any of the operations referred to in paragraph (a);

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

(f) may order, by instrument in writing –

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

(ii) the discontinuance of the use of any machinery or equipment,

which he considers unsafe, unless and until such action as is necessary for safety and specified in the instrument is taken and completed; or

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

(2) Before exercising any of his powers under subsection (1), if there is any person who is or appears to be in charge of the area, structure, vehicle, vessel, aircraft, building, machinery, equipment or matters or thing in respect of which the power is about to be exercised, the Commissioner or an authorized officer, as the case may be, shall identify himself to that person and to any person to whom he is about to give an order or a direction.

(3) Any person who is aggrieved by a decision, direction or order of an authorized officer made under this section may appeal in writing to the Commissioner or, in a decision, direction or order made by the Commissioner, to the Minister, who shall, as soon as practicable hear and dispose of the appeal, but the bringing of the appeal does not affect the operation of the decision, direction or order appealed from pending disposition of the appeal.

(4) On appeal under subsection (3), the Commissioner or the Minister, as the case may be, may rescind or affirm the decision, direction or order appealed from or may make a new decision, direction or order in substitution therefor, and that decision, direction or order is final.

(5) In exercising his powers under subsection (1), the Commissioner or an authorized officer may be accompanied by any person who the Commissioner or the authorized officer, as the case may be, believes has special or expert knowledge of any matter being inspected, tested or examined.

(6) A person who is an occupier or person in charge of any building, structure or place, or the person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1), shall provide the Commissioner or an authorized officer, as the case may be, with all reasonable facilities and assistance including the provision of necessary means of transport for the effective exercise of the Commissioner's or an authorized officer's powers under this section.

8. Prohibition against disclosure of information

(1) Subject to subsection (2), no information furnished, or information in a report submitted, pursuant to this Act, by a licensee shall be disclosed, except with the consent of the licensee.

(2) Nothing in subsection (1) operates to prevent the disclosure of information when the disclosure is made –

(a) after the licence concerned has ceased to have effect, or has ceased to have effect over the land to which the disclosure would relate;

(b) for or in connection with the administration of this Act;

(c) for the purpose of or in connection with any legal proceedings;

(d) to any consultant to the Government, or to any public servant, who is approved by the Commissioner as a proper person to receive the information;

(e) for or in connection with the preparation by or on behalf of the Republic of statistics in relation to exploration or development operations;

(f) for or in connection with the determination of any liability of the licensee to make any payment to the Republic; or

(g) for or in connection with any matter or for any purpose prescribed in a relevant agreement.

(3) In proceedings on a prosecution for an offence under this section, it is a sufficient defence if the person charged proves that the information disclosed and to which the prosecution relates was, without that disclosure, generally known to the public.

(4) The right of a licensee to disclose information obtained from or as a result of prospecting or development operations is subject to the restrictions and limitations in a relevant agreement, and the licensee shall comply with any such restrictions or limitations.

(5) There may be included in a licence provision with respect to the disclosure of certain specific data or information, prior to the licence ceasing to have effect, after specified periods.

9. Prohibition against holding licence, etc.

(1) In this section –

"member of the family", in relation to a relevant person means –

(a) the husband or wife, or reputed husband or wife; and

(b) the son of daughter being a minor whether born in or outside wedlock,

of the relevant person; and

"relevant person" means an authorized officer engaged in the administration of this Act.

(2) No relevant person, in his private capacity, shall acquire, attempt to acquire or hold –

(a) a licence or an interest in a licence; or

(b) a share in a body corporate that is entitled under this Act to carry on prospecting or development operations in land in the Republic.

(3) In proceedings on a prosecution for an offence under this section of acquiring a share of a kind referred to in subsection (2)(b), it is a sufficient defence if the person charged proves –

(a) that the share was acquired by operation of law; and

(b) that all reasonable steps necessary to dispose of the shares have been, and are continuing to be, taken.

(4) In proceedings on a prosecution for an offence under this section of holding a licence, or an interest or share of a kind referred to in subsection (2), it is a sufficient defence if the person charged proves –

(a) that –

(i) the licence, interest or share was acquired before he became a relevant person; or

(ii) the share was acquired before the body corporate became entitled under this Act to carry on prospecting or development operations; and

(b) that since he became a relevant person or since the body corporate became so entitled, as the case may be, all reasonable steps necessary to dispose of the licence, interest or share have been, and are continuing to be, taken.

(5) For the purpose of this section, the acquisition or holding by a member of the family of a relevant person not herself or himself being a public servant of any licence, interest or shares of the kind referred to in subsection (1), is deemed to be a holding by the relevant person of the licence, interest or shares.

(6) This section applies with respect to shares whether acquired before or after the commencement of this Act, or whether acquired by a person before he became a relevant person.

10. Indemnity

An authorized officer does not incur any liability in respect of the exercise or performance, or purported exercise or performance, by him in good faith of any function under and for the purpose of this Act.

PART 3 – LICENCES

Division 1 – General

11. Agreements with respect to grant of licence

Subject to section 14, the Minister, on behalf of the Republic, may enter into an agreement not inconsistent with this Act with any person with respect to all or any of the following matters, namely –

(a) the grant to that person, or to any person including any body corporate to be formed identified in the agreement, of a licence on the conditions, if any, specified in the agreement;

(b) the conditions to be included in the licence as granted or renewed; or

(c) any matter incidental to or connected with the forgoing.

12. Application

(1) An application under this Act –

(a) shall be made in the prescribed form and manner;

(b) shall be made to the Minister or, if it is so prescribed, to the Commissioner; and

(c) may be withdrawn by the applicant giving to the Minister, or in the case of an application made to the Commissioner, to the Commissioner, a notice of withdrawal.

(2) An application shall be accompanied by the fee, if any, prescribed in respect of the application.

(3) The Minister may, by notice served on an applicant for the grant of a licence, require the applicant to do either or both of the following, namely –

(a) publish details of his application at a time or times, and in a manner, specified in the notice;

(b) give details of his application to the person or persons, and in a manner, specified in the notice.

13. Power of Minister to obtain information

(1) The Minister may, by notice served on an applicant for the grant or renewal of a licence, require the applicant to furnish him, within such reasonable time as is specified in the notice –

(a) with such further information relevant to the application as may be described in the notice; and

(b) if the applicant, or any of the applicants, is a body corporate, with such information as may be described in the notice to enable him to ascertain to what extent the controlling power in the direction of the affairs of the body corporate is in a corporation incorporated outside the Republic, or an individual or individuals resident outside the Republic.

(2) Where an applicant for the grant or renewal of a licence fails to comply with the requirements of a notice served on him pursuant to subsection (1) the application lapses.

(3) To enable him to dispose of an application for the grant or renewal of a licence, the Minister –

(a) may cause such investigations, negotiations or considerations to be carried on as he considers necessary; and

(b) may, by notice served on the applicant for the grant or renewal of the licence, require the applicant to furnish him, within such reasonable time as is specified in the notice, with such proposals, by way of alteration to or in addition to any proposals in the application, as the Minister specifies in the notice.

(4) The Minister may require an applicant for the grant or renewal of a licence to make arrangements, satisfactory to the Minister for the execution of a bond, or other from of security, for the performance and observance of the conditions of the licence if granted or renewed.

14. Restriction on persons to whom licence may be granted

(1) No licence shall be granted to an individual unless he is an indigenous citizen of the Republic.

(2) No petroleum prospecting licence shall be granted to a body corporate unless the body corporate is –

(a) a company;

(b) a corporation incorporated in the Republic; or

(c) a corporation, not being a corporation of a kind referred to in paragraph (b), approved by the Minister.

(3) No petroleum production licence shall be granted to a body corporate unless the body corporate is –

(a) a company; or

(b) a corporation incorporated in the Republic.

15. Notice of decision on application and form of licences

(1) The Minister shall cause an applicant for the grant or renewal of a licence to be notified of the decision on the application giving, where he is prepared to grant or renew the licence, details of the conditions on which the licence shall be granted or renewed.

(2) Where an applicant for the grant or renewal of a licence –

(a) notifies the Minister in writing, within sixty days of the date of the notification pursuant to subsection (1), or within such further period as the Minister may allow, that he accepts the conditions of the grant or renewal of the licence, the Minister shall cause the licence to be issued or renewed on those conditions; or

(b) fails to notify the Minister in accordance with the requirement of paragraph (a), the application lapses.

(3) A licence shall be in the prescribed form.

16. Restriction on exercise of rights by licensee

Where the doing of any act is prohibited or regulated by a written law, other than this, nothing in this Act shall be construed, –

(a) where the doing of the act is so prohibited, as authorizing a licensee to do the act; or

(b) where the doing of the act is so regulated, as authorizing a licensee to do the act –

(i) otherwise than in accordance with the written law and any authority referred to in sub-paragraph (ii); and

(ii) without first obtaining any authority howsoever described required under the written law for the doing of the act.

Division 2 – Petroleum Prospecting Licence

17. Disposal of application for petroleum prospecting licence

(1) Subject to this Act, on application duly made the Minister may grant, on such conditions as he may determine, or refuse to grant, a petroleum prospecting licence in respect of any block or blocks.

(2) A petroleum prospecting licence shall not be granted in respect of a block which is, at the time the application for the grant of the licence is made, comprised in a licence already granted.

18. Content of petroleum prospecting licence

(1) A petroleum prospecting licence –

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

(b) shall identify the block or blocks to which the licence relates;

(c) shall state the conditions on which the licence is granted; and

(d) may contain such other matters as the Minister may determine for the purposes of subsection (2) or otherwise.

(2) There may be included in a petroleum prospecting licence provision with respect to the exercise by the Republic, or a person or agency identified in the licence, of an option to acquire on stipulated terms, or on terms to be agreed an interest in any venture for the production of petroleum which may be carried on in any block or blocks to which the licence relates when granted.

(3) For the purposes of subsection (1), the conditions of a licence shall include the agreement, if any, reached under section 11.

19. Rights conferred by petroleum prospecting licence

A petroleum prospecting licence, while it remains in force, confers on the licensee, subject to this Act and to the conditions specified in the licence or to which the licensee is otherwise subject, the exclusive right to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the prospecting area.

20. Application for renewal of petroleum prospecting licence

(1) Subject to this Act, a licensee may apply for the renewal of a petroleum prospecting licence in the prescribed form and manner not less than sixty days before the expiration of the licence.

(2) A petroleum prospecting licence may be renewed twice only.

21. Grant or refusal of renewal of petroleum prospecting licence

(1) Subject to subsection (2), on application duly made under section 20 for the renewal of a petroleum prospecting licence, the Minister shall grant a renewal of the licence on such conditions as are reasonably necessary to give effect to the application and the requirements of this Act.

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

(3) The Minister shall not refuse to grant the renewal of a petroleum prospecting licence on application duly made –

(a) unless he has given to the applicant notice of his intention to do so –

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

(ii) stating in the notice a date before which the applicant may take appropriate action to remedy the default or make representations in relation to that ground; and

(b) the applicant has not, before that date remedied the default or, in a notice given to the Minister, made representations which, in the opinion of the Minister, remove the ground for the intended refusal or excuse the default.

22. Term of petroleum prospecting licence

(1) A petroleum prospecting licence, unless sooner determined shall by virtue of this subsection continue in force –

(a) for such period stipulated in the licence not exceeding, four years, next after the date of the grant of the licence;

(b) for any period not exceeding two years, on each occasion for which the licence is renewed pursuant to section 21; and

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

(2) Where a petroleum prospecting licence would otherwise cease to be in force then, by virtue of this subsection, the licence shall, unless sooner determined, continue in force in respect of any block subject to the licence to which an application, duly made, for the grant of –

(a) a renewal of the licence; or

(b) a petroleum production licence,

relates, until –

(c) the application is finally dealt with –

(i) by the renewal or refusal to renew the licence; or

(ii) as the case may be, by the grant or refusal to grant the petroleum production licence; or

(d) the application lapses under section 13(2) or section 15(2); or

(e) the application is withdrawn.

(3) Where a petroleum prospecting licence would otherwise cease to be in force then, by virtue of this subsection, the licence shall, unless sooner determined, continue in force in respect of any discovery block or blocks in the prospecting area until a notice is given pursuant to section 26(1), or until the lapse of the period of thirty days referred to in section 26(1), whichever first occurs.

(4) Where a notice given pursuant to section 26(1) states that a discovery is, in the opinion of the licensee, of potential commercial interest and the petroleum prospecting licence relating to the discovery would otherwise cease to be in force then, by virtue of this subsection, the licence shall, unless sooner determined, continue in force in respect of the discovery block or blocks in the prospecting area –

(a) for the period specified in section 26(2); and

(b) for any extension of that period allowed by the Minister pursuant to section 26(3).

23. Duties of licensee

(1) Subject to subsections (3) and (4), a licensee shall in, or in relation to, the prospecting area, meet the requirements, with respect to work and expenditure, –

(a) stipulated in the licence; and

(b) at each programme submitted pursuant to subsection (2).

(2) A licensee shall, not later than one month before the anniversary in any year of the grant of a petroleum prospecting licence, submit to the Minister in detail an adequate programme with respect to work and expenditure to be carried out or made in the year of the term of the licence immediately following the anniversary concerned.

(3) The Minister may, on application made to him in writing by a licensee, by instrument in writing limit, reduce, vary or suspend any obligation arising pursuant to subsection (1) either conditionally or unconditionally.

(4) A licensee may, for good cause, amend the details of any programme of work and expenditure which he is required under subsection (1) to carry out but –

(a) the licensee shall forthwith give notice in writing to the Minister of any such amendment, giving in the notice details of and the reasons for the amendment; and

(b) no such amendment shall have effect so as to reduce the minimum requirements of the overall programme of work and expenditure to be carried out in any phase or period, identified in the licence.

(5) Where a licensee fails to carry out any part of the work programme stipulated in his petroleum prospecting licence, or in a work programme submitted pursuant to subsection (2), then without prejudice to any other right which may be invoked in respect of that failure, the relevant provisions of the licence, if any, apply for the purpose of determining the liquidated damages payable to the Republic.

(6) The requirement in subsection (2) with respect to the submission of an adequate programme with respect to work and expenditure is deemed to have been met in any case where the programme submitted pursuant to that subsection satisfies the requirements, if any, with respect to work and expenditure contained in a relevant agreement.

24. Relinquishment of land in prospecting area

Schedule 1 applies with respect to relinquishment of land in a prospecting area.

Division 3 – Discovery of Petroleum

25. Discovery of petroleum to be notified

(1) Where any significant discovery of petroleum is made by the licensee in a prospecting area, the licensee –

(a) shall forthwith inform the Commissioner of the discovery;

(b) shall within a period of thirty days after the date of the discovery, furnish to the Commissioner particulars in writing of the discovery; and

(c) shall promptly run tests in respect of the discovery and thereafter forthwith submit to the Commissioner evaluated test results in respect of the discovery; and

(d) shall, subject to subsection (3), take promptly all steps that are reasonable, in the circumstances relating to the discovery, to ascertain the quantity of the petroleum –

(i) in the petroleum reservoir to which the discovery relates; or

(ii) if part only of that reservoir is within the prospecting area, in that part.

(2) Where petroleum is discovered in a prospecting area, the Minister may, from time to time, by notice in writing served on the licensee, direct that licensee –

(a) to furnish to him, within the period specified in the notice, particulars in writing 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, such things as the Minister thinks necessary and specifies in the notice, to ascertain the chemical composition and physical properties of the petroleum.

(3) The Minister may, by regulation, exempt, wholly or partly, from the requirement of subsection (1)(b) the licensee, either unconditionally or subject to such conditions as are specified in the regulation.

26. Discovery of petroleum of potential commercial interest

(1) Where petroleum is discovered in a prospecting area and the licensee has, pursuant to section 25(1)(c), submitted to the Minister evaluated test results in respect of the discovery the licensee shall, within thirty days of the date of submission of such evaluated results, serve on the Minister a notice stating that the discovery is, or as the case may be, is not, in the opinion of the licensee of potential commercial interest.

(2) Where a notice served under subsection (1) states that the discovery is, in the opinion of the licensee, of potential commercial interest the licensee may, unless the licence is sooner determined, within a period of two years after the date on which such notice is so served, apply under section 28(1) for the grant of a petroleum production licence with respect to the discovery block or blocks in the prospecting area.

(3) If the licensee fails within the period specified in subsection (2), or within such further period as the Minister allows, to apply for a petroleum production licence with respect to the discovery block or blocks in the prospecting area, the Minister may, if the licence is then in force in respect of that discovery block or those discovery blocks, by notice served on the licensee direct that the licence shall cease to have effect with respect to that block or those blocks, or with respect to any part thereof identified in the notice, and the licence shall so cease to have effect.

(4) Subject to subsection (7), where a notice served under subsection (1) states that the discovery is not, in the opinion of the licensee, of potential commercial interest, the Minister may –

(a) within a period of twelve months from the date on which the notice is so served;

(b) by notice in writing served on the licensee;

(c) direct that the licence, if then in force in respect of the discovery block or blocks in the prospecting area, shall cease to have effect with respect to that block or those blocks, or with respect to any part thereof identified in the notice;

and, with effect from the date of the service of the notice referred to in paragraph (b), the licence shall so cease to have effect.

(5) Where a notice served under subsection (1) states that the discovery is not, in the opinion of the licensee, of potential commercial interest, section 25(2) shall not apply in respect of the discovery –

(a) during the period of twelve months referred to in subsection (4)(a); and

(b) if the Minister does not give a direction pursuant to subsection (4)(c), during subsequent period.

(6) For the purposes of this section, "discovery block", in relation to a prospecting area, means a block in the prospecting area in which the discovery of petroleum is located.

(7) The Minister shall not give a direction under subsection (4) if he forms the opinion, as a result of evidence available to him, that the discovery is of potential commercial interest.

27. Investigations

(1) Where a licensee has served under section 26(1), a notice on the Minister stating that a discovery of petroleum is, in the opinion of the licensee, of potential commercial interest, the Minister may, by written notice served on the licensee, direct the licensee to carry out, within a period prescribed investigations and studies as the Minister thinks appropriate and specifies in the notice, for the purpose of assessing the feasibility of the construction, establishment and operation of an industry for the production of petroleum in the discovery block or blocks concerned.

(2) The licensee shall furnish to the Minister, within the period specified in the notice under subsection (1), such reports, analyses and data resulting from the investigations and studies carried out under this section as the Minister, by written notice served on the licensee, may require.

Division 4 – Petroleum Production Licence

28. Application for petroleum production licence

(1) A licensee whose petroleum prospecting license is in force may, within the period specified in section 26(2) or within such further period as the Minister may allow under section 26(3), apply pursuant to this subsection for the grant of a petroleum production licence with respect to any discovery block or blocks in the prospecting area, or with respect to any part thereof, which the licensee satisfies the Minister contains or, as the case may be, contain a petroleum reservoir or part of a petroleum reservoir.

(2) A person may apply pursuant to this subsection for the grant of a petroleum production licence in respect of a block or blocks, or part thereof, notwithstanding that he does not hold a petroleum prospecting licence in respect of the block or blocks, or does not hold any petroleum prospecting licence.

29. Disposal of application for petroleum production licence

(1) Subject to section 30 –

(a) on application duly made pursuant to section 28(1), the Minister shall grant the petroleum licence applied for on such conditions as are reasonably necessary to give effect to the application and the requirements of this Act; and

(b) on application duly made pursuant to section 28(2), the Minister may, if he is satisfied that the block or blocks, the subject of the application, contain a petroleum reservoir or part of a petroleum reservoir, grant on such conditions as he may determine, or refuse to grant, the petroleum production licence applied for.

(2) For the purpose of determining the conditions to be included in a licence to be granted pursuant to subsection (1)(a), the Minister shall give effect to any relevant agreement.

30. Restrictions on grant of petroleum production licence

(1) A petroleum production licence shall not be granted to an applicant –

(a) unless –

(i) the proposals of the applicant take proper account of environmental and safety factors;

(ii) the proposals of the applicant shall ensure the most efficient, beneficial and timely use of the petroleum resources concerned;

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

(iv) the applicant shall be able and willing to comply with the conditions on which a licence shall be granted;

(v) the applicant's proposals for the employment and training of citizens of the Republic are satisfactory;

(vi) the applicant's proposals with respect to the procurement of goods and services obtainable within the Republic are satisfactory; and

(vii) any relevant option given pursuant to section 18(2) has been properly exercised and given effect to or arrangements satisfactory to the Minister have been made for that purpose; or

(b) if the applicant is in default, unless the Minister considers that special circumstances exist which justify the grant of the licence notwithstanding the default.

(2) The Minister shall not refuse an application for the grant of a petroleum production licence on application being duly made pursuant to section 28(1) –

(a) unless he has given to the applicant notice of his intention to do so –

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

(ii) stating in the notice a date before which the applicant may take appropriate action to remedy the default or make representations in relation to that ground; and

(b) the applicant has not, before that date, remedied the default or, in a notice given to the Minister, made representations which, in the opinion of the Minister, remove the ground for the intended refusal or excuse the default.

(3) A petroleum production licence shall not be granted to an applicant pursuant to section 28(2) in respect of a block which is, at the time the application for the grant of the licence is made, comprised in a licence already granted to a person other than the applicant.

31. Content of petroleum production licence

(1) A petroleum production licence –

(a) shall –

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

(ii) identify the block or blocks to which the licence relates;

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

(iv) give effect to subsection (3);

(b) may contain such other matter as the Minister may determine for the purposes of subsection (3) or otherwise.

(2) There shall be included in a petroleum production licence provision with respect to the duty, and extent thereof, of the licensee to supply petroleum or petroleum products to meet the requirements of the Republic.

(3) There may be included in a petroleum production licence conditions with respect to the refining, disposal or sale of petroleum which may be recovered in the development area.

32. Rights conferred by petroleum production licence

A production licence, while it remains in force, confers on the licensee, subject to this Act and to the conditions specified in the licence or to which the licence is otherwise subject, exclusive rights –

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

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

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

33. Application for renewal of petroleum production licence

(1) The licensee may from time to time, upon payment of the prescribed fee, apply to the Minister in the prescribed form for the renewal of the licence in respect of such blocks the subject of the licence as are specified in the application.

(2) An application for the renewal of a production licence shall be lodged with the Minister not less than six months before the expiration of such licence:

Provided that the Minister may for reasons that he consider sufficient receive an application for the renewal of such a licence less than six months before, but not in any case after, the expiration of the licence.

34. Grant or refusal of renewal of petroleum production licence

(1) Where the licensee who has complied with the conditions of the licence applies under section 33 for the renewal of the licence, the Minister –

(a) shall, if the application is in respect of the first renewal of such licence; or

(b) may, if the application is in respect of a renewal, other than the first renewal, of the licence,

grant him the renewal of the licence.

(2) Where the licensee who has not complied with the conditions of the licence applies under section 33 for the renewal of the licence the Minister, if he is satisfied that special circumstances exist that justify the renewal of the licence, may grant the renewal of the licence or if he is not so satisfied may refuse to grant the renewal of the licence:

Provided that the Minister shall not if the application is in respect of the first renewal of the licence, refuse to grant the renewal of the licence unless –

(a) he has by notice in writing served on the holder of the licence given not less than one month's notice of his intention to refuse to grant the renewal of the licence;

(b) he has sent a copy of such notice to such other persons, if any, as he sees fit;

(c) he has in such notice –

(i) given particulars for his reason for the intention;

(ii) specified a date on or before which the licensee or any person upon whom a copy of the notice is served may submit written representations on any matter that he wishes the Minister to consider;

(d) he has taken into account any representations submitted to him before the date so specified.

35. Term of petroleum production licence

(1) A petroleum production licence, unless sooner determined, shall, by virtue of this subsection, continue in force –

(a) for the period of twenty-five years next after the date of the grant of the licence;

(b) for any period for which the licence is renewed pursuant to section 34; and

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

(2) Where a petroleum production licence would otherwise cease to be in force then, by virtue of this subsection, the licence shall, unless sooner determined, continue in force in respect of any block, subject to the licence, to which an application, duly made, for the grant of a renewal of the licence relates until –

(a) the application is finally dealt with by the grant or refusal to grant the renewal; or

(b) the application lapses under section 15(2).

Division 5 – Miscellaneous

36. Directions

(1) The Minister may, by notice in writing served on a licensee, give to the licensee a direction, consistent with good oil-field practices, as to any matter with respect to which regulations may be made under section 65 and any such licensee who fails to comply with such direction is guilty of an offence.

(2) In proceedings on a prosecution for an offence under subsection (1), it is a sufficient defence of the person charged proves that he promptly took all reasonable steps to comply with the direction.

37. Compliance with directions

Where a licensee fails or neglects to comply with a direction given to him under and in accordance with section 36, the Minister may cause to be done all or any of the things required by the direction to be done, and the costs and expenses incurred in doing so are a debt due to the Republic and may be recovered in a court of competent jurisdiction, notwithstanding that the licensee may have been convicted of an offence under section 36.

38. Unit development

(1) In this section, "unit development", in relation to a petroleum reservoir, means the co-ordination of operations for the recovery of petroleum being carried on or to be carried on in any development area in which there is part of the same reservoir.

(2) A holder of a petroleum production licence may, from time to time, enter into an agreement in writing for or in relation to the unit development of a petroleum reservoir.

(3) The Minister may, on his own motion, or on application made to him in writing by a holder of a petroleum production licence in whose development area there is a part of a particular petroleum reservoir, for the purpose of securing the more effective recovery of petroleum from that petroleum reservoir, direct in writing any such holder whose development area includes part of that petroleum reservoir to enter into an agreement in writing with the holder of any petroleum production licence over any other area in which there is part of the same reservoir, and within the period specified by the Minister in the direction, for or in relation to the unit development of the petroleum reservoir, and to lodge the agreement with the Minister forthwith for approval.

(4) Where –

(a) a holder of a licence who is directed under subsection (3) to enter into agreement for or in relation to the unit development of a petroleum reservoir does not enter into such agreement within the specified period; or

(b) a holder of a licence enters into such an agreement but the agreement is not lodged with the Minister in accordance with subsection (3),

the Minister may, by notice in writing served on the holder, direct him to submit to the Minister, within the period specified in the notice, a scheme for or in relation to the unit development of the petroleum reservoir, and the holder shall comply with such direction.

39. Directions as to recovery of petroleum

(1) Where petroleum is not being recovered in a development area and the Minister is satisfied that there is recoverable petroleum in that area, he may, by notice in writing served on the holder of the petroleum production licence, direct the holder to take all necessary and practicable steps to recover that petroleum.

(2) Where the Minister is not satisfied with the steps taken or being taken by a holder of a licence to whom a direction has been given under subsection (1), the Minister may, by notice in writing served on the holder, give to the holder such directions, consistent with good oil-field practices and specified in the notice, as the Minister thinks necessary for or in relation to the recovery of petroleum in the development area.

(3) Where petroleum is being recovered in a development area, the Minister may by notice in writing served on the holder of the petroleum production licence, direct the holder to take all necessary and practicable steps to increase or reduce the rate at which the petroleum is being recovered to such rate, not exceeding the capacity of existing production facilities, as the Minister specifies in the notice.

(4) Where the Minister is not satisfied with the steps taken or being taken by a holder of a licence to whom a direction has been given under subsection (3), the Minister may, by notice in writing served on the holder, give to the holder such directions, consistent with good oil-field practices and specified in the notice, as the Minister thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the development area.

(5) A licensee to whom directions are given pursuant to subsection (2) or (4) shall comply with such directions.

40. Further information to be furnished, etc.

(1) Where the Minister has reasons to believe that a person is capable of furnishing information or data relating to prospecting or development operations or petroleum obtained or the value thereof he may, by notice in writing require that person –

(a) to furnish to him that information or data within the period and in the manner specified in the notice;

(b) to attend before him or a person identified in the notice at such time and place as is specified in the notice and there to answer questions relating to those operations or petroleum obtained or the value thereof; or

(c) to furnish to a person identified in the notice at such time and place as is so specified in the notice data in his custody or power relating to those operations or petroleum obtained or the value thereof.

(2) A person is not excused from furnishing information, or data or answering a question when required to do so under this section on the grounds that the information or data so furnished, or the answer to the question might tend to incriminate him or make him liable to a penalty, but the information or data so furnished or his answer to the question shall not be admissible in evidence against him in any proceedings other than proceedings for an offence against this section.

(3) Where any data is furnished, under subsection (1)(c), the person to whom it is made available may make copies or take extracts from the data.

(4) In this section, "data" includes books, documents, tapes, diagrams, profiles and charts, photographs, lines or negatives, and includes any data recorded or stored by means of any tape-recorder, computer or other device and any material subsequently derived from data so recorded.

Division 6 – Cancellation and Force Majeure

41. Cancellation

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

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

(a) the Minister has, by notice in writing served on the licensee, given not less than thirty days notice of the Minister's intention to so cancel the licence on that ground;

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

(c) the Minister has taken into account –

(i) any action taken by the licensee to remove that ground or to prevent the recurrence of similar grounds; or

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

(3) The Minister shall not, under subsection (1), cancel a licence on the ground that the licensee has failed to pay any amount payable by him under this Act or his licence if, before the date specified in a notice referred to in subsection (2)(b), the licensee pays the amount of money concerned, together with any amount of interest which may be payable pursuant to section 58.

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

(a) if the licensee, being an individual, is –

(i) adjudged bankrupt; or

(ii) enters into any agreement or scheme of composition with his creditors or takes advantage of any law for the benefit of debtors; or

(b) if, in the case of a licensee that is a body corporate, an order is made or a resolution is passed winding up the affairs of the body corporate, unless the

winding up is for the purpose of amalgamation and the Minister has consented to the amalgamation, or is for the purpose of reconstruction and the Minister has been given notice of the reconstruction.

(5) Where two or more persons constitute a licensee the Minister shall not, under subsection (4), cancel the licence on the occurrence, in relation to one or some only of the persons constituting the licensee, of an event entitling the Minister under the subsection to cancel the licence, if any other person or persons constituting the licensee satisfy the Minister that the person or the persons, as the case may be, is or are willing and would be able to carry out the duties and obligations of the licensee.

(6) The Minister may, on the application of a licensee, cancel in accordance with the application, a licence either wholly or in relation to any block or blocks, on such conditions, if any, as the Minister determines and specifies in the instrument of cancellation.

(7) On the cancellation of a licence, the rights of the licensee thereunder cease, but the cancellation does not affect any liability incurred before the cancellation and any legal proceedings that might have commenced or continued against the former licensee may be commenced or continued against him.

42. Force majeure

(1) Any failure on the part of a licensee to fulfill any of the conditions of his licence or to meet any requirement of this Act or a relevant agreement shall be deemed not to be a breach of the licence, this Act or the agreement, in so far as the failure results from an act of war, hostility, insurrection, or an exceptional, inevitable and irresistible natural phenomenon, or from any other cause prescribed in the licence or relevant agreement as constituting *force majeure* for the purposes of this section.

(2) Where a licensee fails to fulfill any of the conditions of his licence for any period because of the occurrence of circumstances of a kind referred to in subsection (1), he shall forthwith notify the Minister giving particulars of the failure and its cause.

(3) Where a licensee fails to fulfill any of the conditions of his licence because of the occurrence of circumstances of a kind referred to in subsection (1), then that period, as agreed by the Minister, shall be added to the term of his licence, but the Minister may refuse to agree to the addition of any period to the term of a licence if the licensee could, by taking any reasonable steps which were open to him, have exercised those rights during that period, notwithstanding any such occurrence.

(4) This section does not apply with respect to any requirement to meet an obligation under a licence or this Act to make any financial payment prescribed in the licence, or to make payment of any annual charges, rent or fees.

PART 4 – FINANCIAL

43. Financial liabilities prescribed in licence

(1) Subject to this Act, the holder of a petroleum production licence shall discharge the financial liabilities prescribed in his licence in accordance with his licence and this Act.

(2) For the purpose of determining the financial provisions to be included in a petroleum production licence, the Minister shall give effect to any relevant agreement.

44. Prohibition on disposal of petroleum

If the holder of a petroleum production licence fails to discharge any financial liabilities prescribed in his licence in accordance with his licence and this Act, the Minister may, by order served on the holder of the licence, prohibit the removal of, or any dealings in or with, any petroleum from the development area concerned, or from any other development area

subject to a licence held by that holder, or from both, until those obligations have been so discharged or until an arrangement has been made and accepted by the Minister, for their discharge, and the holder shall comply with the order.

45. Remission of amounts payable pursuant to section 43

The Minister may, on application made to him by a licensee and after consultation with the Minister responsible for Finance, –

(a) remit, in whole or part, any amount payable pursuant to any financial liability prescribed in a licence; or

(b) defer payment of any such amount,

on such conditions, if any, as he may determine and specified in the instrument of exemption.

46. Security for compliance and recovery of amounts payable pursuant to section 43

(1) The Minister may, from time to time, make such arrangements as appear appropriate to him to secure that the holder of a licence complies with this Act and his licence or either, and in particular may accept guarantees whether from shareholders or others in respect of that compliance.

(2) Any amount payable pursuant to section 43 is a debt due to the Republic and may be recovered in a court of competent jurisdiction.

(3) A certificate of the Minister certifying that a specified amount is payable pursuant to section 43 by a person specified in the certificate shall, in any proceedings instituted against that person for the recovery of that amount, be received as evidence thereof, but without prejudice to the right to adduce evidence in rebuttal.

PART 5 – OFFENCES AND PENALTIES

47. Contraventions of provisions of the Act

Every person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence and shall, where no specific penalty is provided, be liable to a fine not exceeding VT 1,000,000 or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

48. Offences under section 2(2)

Any person who contravenes of fails to comply with subsection (2) of section 2 of this Act commits an offence and is liable on conviction –

(a) in the case of an individual, to a fine not exceeding VT 10,000,000.

(b) in the case of a body corporate, to a fine not exceeding VT 50,000,000.

49. Offences under section 8

Every person guilty of an offence under subsection (1) of section 8 shall be liable on conviction to a fine not exceeding VT 2,000,000.

50. Offences under section 9

Every person guilty of an offence under subsection (2) of section 9 shall be liable on conviction to a fine not exceeding VT 2,000,000.

51. Penalty for failure to comply with a direction

Any licensee who fails or neglects to comply with a direction given under subsection (1) of section 36 is guilty of an offence and is liable on conviction to a fine not exceeding VT 50,000,000.

52. Offences under section 40

Any person who –

(a) refuse or fails to comply with the requirement in a notice under subsection (1) of section 40 to the extent to which he is capable of complying with it;

(b) in purported compliance with a requirement referred to in subsection (1)(a) of section 40, knowingly or recklessly furnishes information or data that is false or misleading in a material particular; or

(c) when attending before the Minister or any other person under a requirement referred to in subsection (1)(b) of section 40 or furnishing any data to any person under a requirement referred to in subsection (1)(c) of section 40, knowingly or recklessly makes a statement or furnishes any data that is false or misleading in a material particular,

is guilty of an offence and is liable on conviction to a fine not exceeding VT 1,000,000.

53. Penalty for obstruction, etc., of Commissioner and authorized officer

Every person who –

(a) without reasonable excuse, obstructs, molests or hinders the Commissioner or an authorized officer in the exercise of his powers under section 7; or

(b) knowingly or recklessly makes a statement or produces a document that is false or misleading in a material particular to the Commissioner or an authorized officer engaged in carrying out his duties and functions under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding VT 2,000,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

54. Offences under section 62

Any person guilty of an offence under subsection (1) of section 62 is liable on conviction, –

(a) in the case of an individual, to a fine not exceeding VT 10,000,000 or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment; or

(b) in the case of a body corporate, to a fine not exceeding VT 50,000,000.

55. Obstruction of licensee

Any person who, without reasonable excuse, obstructs, molests, hinders or prevents a licensee in or from the doing of any act which the licensee is authorized to do by this Act or his licence is guilty of an offence and is liable on conviction to a fine not exceeding VT 1,000,000.

56. Miscellaneous offences

Any person who –

(a) in, or in connection with, any application under this Act or his licence, or in response to any invitation or requirement of the Minister or the Commissioner under this Act, knowingly or recklessly gives or permits to be given information which is false or misleading in a material particular;

(b) in any report, return or affidavit submitted under this Act or his licence, knowingly or recklessly includes or permits to be included any information which is false or misleading in a material particular; or

(c) places or deposits, or is accessory to the placing or depositing of, any petroleum or substance in any place with the intention of misleading any other person as to the possibility of a petroleum reservoir existing in that place, is guilty of an offence and is liable on conviction –

(a) in the case of an individual, to a fine not exceeding VT 2,000,000; or

(b) in the case of a body corporate, to a fine not exceeding VT 10,000,000.

57. Offence committed by body corporate

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

58. Penalty for late payments

(1) Where the liability of a person under this Act or a licence to pay an amount is not discharged on or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of (one third of one) per centum per day, upon so much of that amount as from time to time remains unpaid, to be computed from the time that the amount became payable until it is paid.

(2) The Minister may, in a particular case, for reasons that in his opinion are sufficient, remit the whole or part of an amount payable under this section.

PART 6 – GENERAL

59. Control of company not to be given without consent of Minister

(1) A company which is the holder of a petroleum production licence shall not, without the prior consent in writing of the Minister –

(a) register the transfer of any equity share or shares in the company to any particular person or his nominee; or

(b) enter into agreement, arrangement, or understanding, whether or not having legal or equitable force, with any particular person,

if the effect of doing so would be to give to the particular person or, in the case mentioned in paragraph (b), the particular person or any person, control of the company.

(2) On application duly made to him in writing for his consent under this section, the Minister shall give his consent if he considers that the public interest would not be prejudiced by the change of control of the company but otherwise shall refuse to give his consent; and for the purpose of considering any such application the Minister may call for and obtain such information as he considers necessary to determine the application.

(3) For the purposes of this section –

(a) a person is deemed to have control of a company –

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

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

(iii) if 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 issued equity shares in the company;

(b) "equity shares", in relation to a company, means shares in the company carrying voting rights in all circumstances at a general meeting of the company, and includes preferences shares, other than preference shares which do not have such voting rights;

(c) "preference shares" means shares which carry the right to payment of a dividend of a fixed amount, or not exceeding a fixed amount, in priority to payment of a dividend on another class or other classes of shares, whether with or without other rights; and

(d) the reference in paragraph (a)(iii) to the entitlement to control the exercise of the right to cast votes shall be read as including an entitlement to control the exercise of that right directly or indirectly, and includes control that is exercisable as a result of or by means of trusts.

60. Schedule 2

Schedule 2 applies –

(a) in relation to the exercise by a licensee of his rights in respect of certain lands;

(b) in relation to surface rights; and

(c) with respect to payment of compensation for damage done by a licensee.

61. Scientific investigation

(1) The Commissioner may, by instrument in writing, consent to the carrying on by any person of prospecting operations in the course of a scientific investigation with respect to the geology or petroleum resources of land in the Republic.

(2) An instrument of consent under subsection (1) is subject to such conditions, if any, as specified in the instrument.

(3) Subject to subsections (5) and (6), an instrument of consent under subsection (1) authorizes the person to whom it is issued to carry on the prospecting operations specified in the instrument –

(a) in the area; and

(b) subject to the conditions, if any,

specified in the instrument, in the course of the specific investigation.

(4) Subject to subsections (5) and (6), any authorized officer, or any person authorized in writing for the purpose of this section by the Commissioner, for the purpose of collecting information on the geology and petroleum resources of the Republic, may enter on any land in the Republic and, for that purpose, carry on any prescribed operation.

(5) The holder of an instrument of consent under subsection (1), or an authorized officer or a person authorized under subsection (4), shall not, pursuant to subsection (3) or (4), enter on any land or place referred to in Schedule 2 without first obtaining the consent required under that Schedule in relation to the land or place.

(6) Section 16 applies in relation to a person to whom an instrument of consent is issued under subsection (1), and to an authorized officer and a person authorized under subsection (4), as it applies in relation to a licensee.

62. Restriction on removal of petroleum

(1) Petroleum shall not be removed from the area from which it has been obtained to any other area, or disposed of in any manner, except –

(a) subject to subsection (2), by a licensee, for the purpose of sampling or analysis;

(b) by a licensee in accordance with the conditions of his licence; or

(c) as otherwise permitted by this Act.

(2) A licensee shall not, pursuant to subsection (1)(a), take or send out of any area any samples of petroleum without the written consent of the Commissioner given under this subsection.

63. Order for forfeiture in respect of certain offences

(1) Where a person is convicted of an offence against this Act a court of competent jurisdiction may, in addition to any other penalty imposed, make –

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

(b) an order –

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

(ii) for the payment by that person to the Republic of an amount equal to the proceeds of the sale of petroleum so received; or

(iii) for the payment by that person to the Republic of the value at the wellhead, assessed by the court in respect of the quantity recovered or for the payment of such a part of that amount as the court, having regard to all the circumstances, thinks fit.

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

(3) The court may, before making an order under this section require notice to be given to, and to hear such persons as the court thinks fit.

64. Indemnity

A licensee shall, at all times, keep the Republic indemnified against all actions, claims and demands that may be brought or made against the Republic by reasons of anything done by the licensee, in the exercise or purported exercise of the rights of the licensee under this Act or his licence.

65. Regulations

(1) The Minister may make regulations prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act, including in particular provision for or with respect to –

(a) the prospecting for petroleum and the carrying on of operations, and the executions of works, for that purpose;

(b) the production of petroleum and the carrying on of operations, and the execution of works, for that purpose;

(c) conserving, and preventing the waste of, the natural resources, whether petroleum or otherwise;

(d) the form and content of, and conditions with respect to, applications for the grant or renewal of licences;

(e) the construction, erection, maintenance, operation or use of installations or equipment;

(f) the prevention of the escape of water or drilling fluid or a mixture of water or drilling fluid or any other matter;

(g) the removal of structures, equipment and other property brought into the Republic in connection with the prospecting for, or the production on conveyance of, petroleum that are not used or intended to be used in connection with that prospecting, production or conveyance;

(h) the pressure maintenance in, or the repressuring of, a petroleum reservoir and recycling of petroleum;

(i) the secondary or tertiary recovery of petroleum from a petroleum reservoir and the methods to be used in such recovery;

(j) the use of wells and the use of the subsurface for the disposal of petroleum, water and other substances produced in association with the prospecting for or the recovery of petroleum;

(k) the rates, or the method of setting the rates, at which petroleum and water may be recovered from any well or petroleum reservoir;

(l) the methods to be used for the measurement of petroleum, water and other substances from a well;

(m) safety and welfare standards and the health and safety of persons employed in or in connection with the prospecting for or the production or conveyance of petroleum;

(n) taking, preserving and furnishing to the Minister or the Commissioner cores, cuttings and samples of petroleum and water;

(o) giving to the Minister reports, tests, data, returns and other information;

(p) the registration of instruments and the effect of the registration of, or failure to register, instruments;

(q) the transfer of licences or interests in licences;

(r) the taking of logs or directional surveys or making other down-hole investigations;

(s) annual charges;

(t) fees; and

(u) the division of the geographic area of the Republic into particular sections.

(2) The regulations may provide, in respect of an offence against the regulations, for the imposition of –

(a) a fine not exceeding VT 5,000,000;

(b) a fine not exceeding that amount for each time the offence occurs;

(c) imprisonment for a term not exceeding five years; or

(d) both such fine and imprisonment.

(3) The power under this section to make regulations may be exercised –

(a) either in relation to all cases to which the power extends, or in relation to all of those cases subject to specified exceptions, or in relation to any specified cases or class of cases; and

(b) so as to make, as respect the cases in relation to which it is exercised –

(i) the same provision for all those cases, a different provision for different cases or classes of cases, or different provisions as respects the same case or class of cases for different purposes of this Act; or

(ii) any such provision either unconditionally or subject to any specified condition.

SCHEDULE 1

(Section 24)

RELINQUISHMENT

1. Relinquishment

(1) A licensee may, at any time when a petroleum prospecting licence is in force and by giving to the Minister not less than six months previous notice in writing of the intention to do so, relinquish any block or blocks in the prospecting area identified in the notice.

(2) Any relinquishment pursuant to sub-paragraph (1) is without prejudice to any obligation incurred by the licensee under the licence or in respect of the area relinquished prior to the date of the relinquishment.

(3) An area relinquished pursuant to sub-paragraph (1) shall unless the Minister otherwise determines, be of such dimensions as to ensure that the remaining prospecting area constitutes a single area or not more than three discrete areas.

(4) Where, pursuant to this paragraph, any area is relinquished then the prospecting licence concerned ceases to have effect with respect to that area.

2. Relinquishment on grant of petroleum production licence

Any part of a prospecting area over which a petroleum production licence is granted to the licensee in respect of that prospecting area shall cease to be part of that prospecting area.

3. Relinquishment for purposes of petroleum prospecting licence

(1) Subject to any relevant agreement, the number of blocks in respect of which an application for a renewal of a petroleum prospecting licence may be made shall not exceed the number which is one-half in total of the number of blocks in respect of which the licence was issued or first renewed, as the case may be.

(2) For the purpose of determining the number of blocks in respect of which a petroleum prospecting licence was granted or first renewed, there shall not be taken into account any block excluded from the prospecting area pursuant to section 26(3) or (4) and any discovery block subsisting in the prospecting area at the date on which the application for the renewal is made.

SCHEDULE 2

(Section 60)

RESTRICTIONS AND SURFACE RIGHTS

1. Definitions

In this Schedule –

"alienator" has the meaning assigned by section 1 of the Land Reform Act [Cap. 123];

"custom owners" means the person or persons who, in the absence of a dispute, the Minister is satisfied are the custom owners of land;

"lawful occupier", in relation to any land, means an alienator or the custom owners, in relation to that land.

2. Restrictions on exercise of rights under licence

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

(a) except with the written consent of the Minister in respect of –

(i) any public land; and

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

(b) subject to sub-paragraph (3) 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 land which has been cleared or ploughed or otherwise *bona fide* prepared for the growing of, or upon which there are growing, agricultural crops;

(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 municipal council having control over the township;

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

(e) in respect of a mining area, as defined in the Mines and Mineral Act [Cap. 190], except with the written consent of the holder of the mining licence concerned; or

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

(2) Any consent under sub-paragraph (1)(a), (c) or (d) may be given unconditionally or subject to such conditions as are specified in the instrument of consent.

(3) Where, in the opinion of the Minister, any consent under sub-paragraph (1)(b) is being unreasonably withheld, he may, on such conditions, if any, as he may impose, give in writing the consent required.

(4) Any dispute as to whether sub-paragraph (1)(b) applies in relation to any land or as to whether any person is a lawful occupier of the land shall be decided by the Minister.

3. Right to graze stock, etc.

(1) The lawful occupier of any land in a prospecting area or a development area retains any right which he may have to graze stock upon or to cultivate the surface of the land, except in so far as the grazing or cultivation interferes with prospecting or development operations in any such area.

(2) The lawful occupier of land in a development area shall not erect any building or structure in the area without the consent of the holder of the production licence, but if the Minister considers that the consent is being unreasonably withheld, he may give his consent and, in that event, the lawful occupier may do so.

(3) The rights conferred by a licence shall be exercised reasonably and so as to affect as little as possible the interests of any lawful occupier of the land subject to the licence or on which rights under the licence are exercised, consistent with the reasonable and proper conduct of operations pursuant to the licence.

(4) Without limiting the generality of sub-paragraph (3), any person carrying on operations under a licence shall not, except where that person gives to the Minister prior notice in writing of the expected nature and duration of the interference, take action which in any way will interfere with –

(a) fishing; or

(b) navigation;

lawfully carried on.

4. Compensation for disturbance of rights, etc.

(1) Where in the course of prospecting or development operations, any disturbance of the rights of the lawful occupier of any land or damage to any crop, trees, buildings, stock or works thereon is caused, a licensee, by virtue of which the operations are carried on, is liable to pay any lawful occupier fair and reasonable compensation in respect of the disturbance or damage according to the respective rights or interests of the lawful occupier concerned.

(2) If a licensee and a lawful occupier fail to reach agreement with respect to the payment of compensation, or the amount of compensation payable, under sub-paragraph (1) in any particular case, either party may refer the matter to the Valuer-General for settlement and the decision of the Valuer-General is final.

5. Notice of intention to commence prospecting operations, etc.

Subject to such exceptions as may be prescribed, a licensee, before commencing prospecting operations or development operations in any land on which there is a lawful occupier, shall give to the lawful occupier of the land notice of his intention to commence the operations, in such manner and form as may be prescribed.

Table of Amendments

4 Reference to Lands Referee changed to Valuer-General, per Act 22 of 2002