



ACT No. 3 of 1986

PETROLEUM (EXPLORATION AND PRODUCTION) ACT 1986

I assent.

H. D. HOYTE,
President.

1986—06—14

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AN ACT to make provision with respect to prospecting for and production of petroleum, and for matters connected therewith.

Enacted by the Parliament of Guyana:—

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PART I

PRELIMINARY

1. (1) This Act may be cited as the Petroleum (Exploration and Production) Act 1986 and shall come into operation on such date as the Minister may, by order, appoint.

Short title,
commence-
ment and
application.

(2) This Act applies to the exploration, exploitation, conservation and management of petroleum existing in its natural condition in land in Guyana, including the territorial sea, continental shelf and exclusive economic zone of Guyana.

2 (1) In this Act —

Interpre-
tation.

- (a) "block" means a block constituted under the Regulations, and includes a part of a block so constituted;
- (b) "body corporate" means a company or a corporation;
- (c) "company" has the same meaning as in the Companies Act;
- (d) "condition" includes any term, prohibition, limitation and stipulation;
- (e) "corporation" means a corporate body incorporated in or outside Guyana, but does not include a company;
- (f) "discovery block", in relation to a prospecting area, means a block in the prospecting area comprising the geological feature, as

Cap. 59:01

- (m) "Inspector" means a person designated as Chief Inspector or as Inspector under section 3;
- (n) "land" includes land beneath water and the sea-bed, and the subsoil of such land and the sea-bed;
- (o) "licence" means a petroleum prospecting licence or a petroleum production licence, or both, as the context requires;
- (p) "licensee" means the holder of a licence;
- (q) "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;
- (r) "petroleum agreement" means an agreement in respect of any of the matters referred to in section 10;
- (s) "petroleum reservoir" means a naturally occurring discrete accumulation of petroleum;
- (t) "prescribed" means prescribed by regulations made by the Minister;
- (u) "production area" means the area, constituted by a block or blocks, in relation to which a petroleum production licence has been granted;

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section 29, or cancellation of a petroleum production licence in relation to the block or blocks, on the application of the holder of the licence, under section 42 (6);

- (e) cancellation of a licence, in relation to any block or blocks, shall be deemed to include a reference to a direction that a licence shall cease to have effect in respect of that block or blocks, but shall not be deemed to include a reference to the cancellation of a petroleum production licence in relation to any block or blocks under section 42(6).

- (3) Every notice under this Act shall be given in writing.

PART II

ADMINISTRATION

3. The Minister may, for the purposes of this Act, by notification in the *Gazette* designate a public officer or any employee of the Guyana Geology and Mines Commission as Chief Inspector and designate such number of public officers or employees of that Commission, as may be considered necessary for the purposes of this Act, as Inspectors.

4. (1) Subject to subsection (2), no information furnished, or information in a report submitted, pursuant to this Act by a licensee shall be disclosed to any person who is not a Minister, a public officer or an employee of the Guyana Geology and Mines Commission except with the consent of the licensee.

(2) Nothing in subsection (1) shall be deemed to prevent the disclosure of information without the consent of a licensee, where the disclosure is made —

- (a) after the licence has ceased to have effect over the land to which the information relates;
- (b) for, or in connection with, the administration of this Act;
- (c) for the purposes of, or in connection with, any legal proceedings;
- (d) to any consultant to the Government or the Guyana Geology and Mines Commission for the purpose of facilitating the performance by the consultant of any functions under the consultancy arrangement;

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- (a) a licence or an interest in a licence; or
- (b) a share in a body corporate which is entitled under this Act to carry on prospecting or production operations for petroleum in Guyana.

(3) Any person who contravenes subsection (2) shall, on summary conviction, be liable to a fine of ten thousand dollars and imprisonment for one year and where such person has acquired in contravention of that subsection a licence, interest in a licence or share in a body corporate, the licence, interest or share shall be forfeited to the State.

(4) In proceedings on a prosecution under this section for the offence of acquiring or holding a licence or interest in a licence, or a share in a body corporate, in contravention of subsection (2), it shall be sufficient defence if the accused person proves —

- (a) that the licence, interest in licence or share was acquired by operation of law and that as soon as is possible after the licence, interest in licence or share was acquired by him it has been disposed of or all reasonable steps necessary to dispose of it have been, and are continuing to be, taken by him; or
- (b) that —
 - (i) the licence, interest in licence 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 production operations for petroleum in Guyana,

and that as soon as possible after he became a relevant person or after the body corporate became so entitled, as the case may be, the licence, interest in licence or share has been disposed of or all reasonable steps necessary to dispose of the licence, interest in licence or share have been, and are continuing to be, taken by him.

6. (1) No public officer, or employee of the Guyana Geology and Mines Commission, shall be liable for anything done or

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- (a) under and in accordance with a licence granted by the Minister under this Act; or
- (b) under and in accordance with a licence granted under the Petroleum (Production) Act before the commencement of this Act. Cap. 65:05.

(2) Any person who contravenes subsection (1) shall, on summary conviction, be liable to a fine of twenty-five thousand dollars and imprisonment for three years.

PART IV

LICENCES

Chapter I

General

9. (1) No licence shall be granted —

- (a) to an individual, unless he is a citizen of Guyana; or
- (b) to a body of persons, unless it is —
 - (i) a company; or
 - (ii) a corporation.

Restriction
on persons
to whom
licence may
be granted.

(2) A licence may be granted to two or more persons associated together in any form of joint arrangement, if each one of them is qualified to hold the licence under subsection (1).

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

10. The Minister may enter into an agreement (not in-
consistent with this Act) with any person with respect to all or any of the following matters, namely — Agreement
with respect
to grant of
licence.

14. (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 it is proposed to grant or renew the licence, details of the conditions subject to which the licence shall be granted or renewed.

Notice of
decision on
the
application.

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

(a) notifies the Minister, in writing, within a period of sixty days of the date of the notification under 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;

(b) fails so to notify the Minister within the aforesaid period or further period, as the case may be, the application shall lapse.

15. (1) The Minister may, by notice served on an applicant for the grant of a licence, require, the applicant to furnish to the Minister in writing, within such reasonable time as is specified in the notice, —

Power of
Minister to
obtain in-
formation
from appli-
cant for
licence.

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

(b) if the applicant, or any of the applicants, is a body corporate, such information as may be specified in the notice to enable the Minister to ascertain to what extent the controlling power (whether directly or indirectly) in the direction of the affairs of the body corporate is vested in a corporation, or an individual or individuals, resident outside Guyana.

(2) Where an applicant for the grant of a licence fails to comply with the requirements of a notice served on him under subsection (1), the application shall lapse.

(3) To enable him to dispose of an application for the grant of a licence, the Minister may —

(a) cause such investigations, negotiations or consultations to be made or carried on as the Minister considers necessary; and

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(3) In determining, for the purposes of this section, 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 discovery block excluded from the prospecting area pursuant to section 31(3) or 32(1) and any discovery block subsisting in the prospecting area at the date on which the application for the renewal is made.

(4) The blocks in respect of which an application for the renewal of a petroleum prospecting licence is made under subsection (1) shall, subject to a petroleum agreement, be such as to ensure that they constitute a continuous area.

25. (1) Subject to subsection (2), on application duly made under section 24 for the renewal of a petroleum prospecting licence, the Minister shall grant a renewal of the licence on such conditions as are necessary to give effect to the application and the requirements of this Act, for such period, not exceeding three years on each occasion, as may be specified by the Minister :

Renewal of petroleum prospecting licence.
Provided that, subject to a petroleum agreement, a petroleum prospecting licence shall not be renewed —

- (a) in respect of such number of blocks as is in excess of the number in respect of which an application for renewal of a petroleum prospecting licence may be made under section 24(2); or
- (b) in respect of blocks which do not constitute a continuous area.

(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 is of the opinion that special circumstances exist which justify the granting of the renewal notwithstanding the default.

(3) The Minister shall not refuse under subsection (2) to grant the renewal of a petroleum prospecting licence on application being duly made therefor under section 24 —

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

(3) Where a petroleum prospecting licence would otherwise cease to be in force in respect of any block or blocks, in a prospecting area, wherein petroleum has been discovered, then, by virtue of this subsection, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of that discovery block or blocks until a notice is served pursuant to section 31(1), or until the expiry of the period of thirty days referred to in that section, whichever first occurs.

(4) Where a notice given under section 31(1) states that a discovery of petroleum in any block or blocks in a prospecting area is, in the opinion of the licensee, of potential commercial interest and the petroleum prospecting licence relating to the discovery block or blocks would otherwise cease to be in force, then, by virtue of this subsection, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force in respect of the discovery block or blocks, until the expiry of —

- (a) the period of two years specified in section 31(2); and
- (b) any further period allowed by the Minister under the proviso to section 31(2).

27. (1) Subject to subsections (3) and (4), the holder of a petroleum prospecting licence 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) of each programme submitted pursuant to subsection (2).

(2) The holder of a petroleum prospecting licence shall, not later than one month before the anniversary in any year of the date of the grant of the 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 the holder of a petroleum prospecting licence, by instrument in writing amend or suspend any obligation arising under subsection (1), either conditionally or unconditionally.

(4) The holder of a petroleum prospecting licence may, for good cause, amend the details of any programme of work and expenditure which he is required under subsection (1)(b) to carry out or make.

otherwise directs, be such as to ensure that the remaining prospecting area constitutes a continuous area.

(4) Where under this section any block or blocks are relinquished, then, the petroleum prospecting licence concerned shall cease to have effect from the date of the relinquishment with respect to that block or blocks.

29. Where a petroleum production licence is granted, in respect of any block or blocks in a prospecting area, to the holder of a petroleum prospecting licence in relation to that area, the aforesaid block or blocks shall cease to be part of the prospecting area.

Exclusion of block or blocks from prospecting area.

Chapter 3

Steps after Discovery of Petroleum

30. (1) Where a discovery of petroleum is made in a prospecting area, the licensee in relation to that area —

Discovery of petroleum to be notified to Minister.

- (a) shall —
- (i) forthwith inform the Minister of the discovery;
 - (ii) within a period of thirty days from the date of the discovery, furnish to the Minister particulars in writing of the discovery; and
 - (iii) promptly run tests in respect of the discovery and thereafter forthwith submit to the Minister evaluated test results in respect of the discovery; and
- (b) 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 in the petroleum reservoir to which the discovery relates or, if part only of that reservoir is within the prospecting area, in that part.

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

opinion is reasonable in the circumstances of the case, to apply for the grant of a petroleum production licence under this subsection.

(3) If the holder of a petroleum prospecting licence fails within the period specified in subsection (2), or within such further period as the Minister may allow under the proviso thereto, to apply for a petroleum production licence in respect of the whole or part of any discovery block or blocks, in the prospecting area, the Minister may, if the petroleum prospecting licence is then in force in respect of the discovery block or blocks, by notice served on the licensee, direct that the licence shall cease to have effect in respect of the whole or part, as the case may be, of the discovery block or blocks with effect from the date specified therein and thereupon the licence shall cease to have effect with effect from the date so specified in respect of the whole or part, as the case may be, of such discovery block or blocks.

32. (1) Where a notice served under section 31(1) states that the discovery of petroleum in any discovery block or blocks in a prospecting area is not, in the opinion of the licensee, ^{Discovery of petroleum not of potential commercial interest.} potential commercial interest —

- (a) subject to subsection (2), the Minister may, if the petroleum prospecting licence is then in force in respect of the aforesaid discovery block or blocks, within a period of twelve months from the date on which the said notice is served on him, direct by notice in writing served on the licensee that the licence shall cease to have effect with respect to such discovery block or blocks with effect from the date specified therein, and thereupon the licence shall cease to have effect in respect of the aforesaid discovery block or blocks with effect from the date so specified; and
- (b) during the aforesaid period of twelve months, notwithstanding that during that period the Minister has not pursuant to paragraph (a) directed that the licence shall cease to have effect in respect of the aforesaid discovery block or blocks, and during any period thereafter, section 30 (1) (b) and (2) shall not apply in respect of the discovery, and any direction given under section 30(2) before the commencement of the aforesaid period of twelve months in respect of the discovery and not carried out before such commencement shall cease to have effect.

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(2) Any person, notwithstanding that he does not hold a petroleum prospecting licence in respect of any block or blocks, may, on the Minister being satisfied on data supplied by that person or otherwise that a petroleum reservoir or part of a petroleum reservoir is located therein, apply under this subsection for the grant of a petroleum production licence in respect of that block or blocks.

(3) An application under subsection (1) or (2) —

- (a) shall be made to the Minister;
- (b) shall be accompanied by detailed proposals by the applicant for 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 area; and
- (c) shall be accompanied by such other particulars as may be required by the Regulations.

35. (1) Subject to section 36, —

Grant of
petroleum
production
licence.

- (a) where an application is duly made under section 34(1), the Minister shall grant the petroleum production licence applied for on such conditions as are necessary to give effect to the application and the requirements of this Act; and
- (b) where an application is duly made under section 34(2), the Minister may grant, on such conditions as the Minister determines, or refuse to grant the petroleum production licence applied for.

(2) Conditions necessary to give effect to a petroleum agreement entered into by the applicant for a licence shall be included in any licence granted to the applicant under subsection (1).

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

Restrictions
on grant or
refusal
of petroleum
production
licence.

- (i) the proposals of the applicant would ensure the most efficient and beneficial use of the petroleum resources concerned;
- (ii) the applicant has adequate financial resources and technical and industrial competence and

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- (ii) in the case referred to in paragraph (a) (ii) remedied the default or suitably amended the proposals.

(3) A petroleum production licence shall not be granted to an applicant under section 34(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.

37. (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; 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 (3) or for any other purpose of this Act.

(2) There may be included in a petroleum production licence provision with respect to the duty of the licensee to supply petroleum or petroleum products, to the extent specified in the licence, to meet the requirements of Guyana.

(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 production area.

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

- (a) to carry on prospecting and production operations in the production area;
(b) to sell or otherwise dispose of petroleum recovered; and
(c) to carry on such operations and execute such works in the production area as are necessary

Contents of
petroleum
production
licence.

Rights con-
ferred by
petroleum
production
licence.

Chapter 5

Cancellation of Licence and Force Majeure

42. (1) Subject to this section and section 43, where a licensee ^{Cancellation} is in default the Minister may, by notice 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 served on the licensee, given not less than thirty days notice of the intention to cancel the licence on that ground;
- (b) the Minister has in the notice, specified a reasonable date before which the licensee may, in writing submit any representation 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, where the default cannot be remedied, any offer by the licensee to the Minister of adequate compensation in respect thereof and any action by the licensee to prevent the recurrence of similar grounds; and
 - (ii) any representation 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 the licence if, before the date referred to in paragraph (b) of subsection (2), and specified in a notice under that subsection, the licensee pays the amount, together with any additional amount which may be payable under section 48.

(4) The Minister may, by notice served on a licensee, cancel his licence —

- (a) if the licensee, being an individual, is —
 - (i) adjudged bankrupt; or

kind referred to in subsection (1), he shall forthwith notify the Minister giving particulars of the failure and its cause.

(3) Where a licensee is prevented from exercising any of his rights under his 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 agreed by the Minister shall be added to the term of his licence :

Provided that 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 him, have exercised those rights during that period notwithstanding any such occurrence.

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

Chapter 6

Unit Development

44. (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 a production area, in which part of the reservoir is located with operations for the recovery of petroleum being carried on, or to be carried on, in any other area in which another part of the same reservoir is located.

(2) A holder of a petroleum production licence may, from time to time, enter into an agreement in writing with one or more other licensees for or in relation to the unit development of a petroleum reservoir and shall forthwith thereafter submit the agreement to the Minister for approval.

(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 production area part of a petroleum reservoir is located, for the purpose of securing more effective recovery of petroleum from that petroleum reservoir, direct in writing any licensee, whose production area includes part of that petroleum reservoir, to enter into an agreement in writing with any other licensee or licensees, whose production area or areas include part or parts of that petroleum reservoir, within the period specified by the Minister in the direction, for or in relation to the unit development of that petroleum reservoir.

subject to a licence held by that holder, or from both, until all outstanding royalty in arrears has been paid or until an arrangement has been made, and accepted by the Minister, for the payment of the royalty in arrears, and the holder shall comply with the notice.

(2) Any person who contravenes a notice under subsection (1) shall be guilty of an offence and shall, on summary conviction, be liable to a fine of twenty-five thousand dollars and imprisonment for three years.

47. The Minister may, from time to time, make such arrangements as appear appropriate to the Minister to secure that the holder of a licence complies with this Act and his licence, and in particular may accept guarantees in respect of that compliance from any person including from shareholders in a body corporate, whether or not the body corporate is, or is to be, the holder of a licence. ^{Guarantee for compliance with Act and licence.}

48. (1) Where the liability of a person under this Act or a licence to pay an amount is not discharged on or before the date when the amount became payable, there shall be payable by that person, by way of penalty, an additional amount calculated at the rate of one third of one per cent per day, upon so much of that amount as from time to time remains unpaid, to be computed from the date on which that amount became payable and until it is paid. ^{Penalty for late payments.}

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

(3) Where royalty to be paid by a licensee is payable in kind, references to "amount" in this section shall be construed as references to the price of the petroleum payable as royalty computed as on the date on which it becomes payable.

49. The Minister may, on application made to him by a licensee and after consultation with the Minister assigned responsibility for finance, by order, — ^{Remission of royalty, etc.}

- (a) remit, in whole or in part any royalty payable by the applicant; or
- (b) defer payment of any royalty, on such conditions (if any) as he may specify in the order.

50. (1) Royalty payable pursuant to section 45 and any penalty payable under section 48 is a debt due to the State and recoverable in the same manner as revenues due to the State. ^{Recovery of royalty.}

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- (a) except with the written consent of the President, in respect of —
- (i) any land set apart or required for such public purpose (other than mining development) as may be prescribed;
 - (ii) any land dedicated as a place of burial or which is a place of religious significance; or
 - (iii) the foreshore;
- (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 upon which there are growing, agricultural crops;
 - (iii) any land from which, during the year immediately preceding, agricultural crops have been reaped;
- (c) in respect of any land within, or 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, or 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

(3) The rights conferred by a licence shall be exercised reasonably and so as to effect 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 the provisions of subsection (3), a person carrying on prospecting or production 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 any action which in any way will interfere with fishing or navigation, lawfully being carried on.

56. (1) Where, in the course of prospecting or production operations in any parcel of land in any prospecting area or production area, any damage is caused or done to the surface of the parcel of land, 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.

Compensation.

(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 the High Court on application made to it by the licensee or the person entitled to receive the compensation.

57. A licensee shall, before commencing prospecting operations or production operations in any parcel of land, give to the holder of any right, title or interest in or over that land, who is in occupation thereof, notice of the licensee's intention to commence the operations, in such manner and form as may be prescribed.

Notice of intention to commence prospecting operations, etc.

58. (1) The Minister may acquire land for the purpose of carrying on, or facilitating the carrying on, of prospecting or production operations.

Acquisition of land for prospecting or production operation.

(2) The provisions of the Acquisition of Lands for Public Purposes Act shall *mutatis mutandis* apply to the acquisition of any land under subsection (1) as if the carrying on, or facilitating the carrying on, of the prospecting or production operations, for the purposes of which the land is being acquired, were a public work.

Cap. 62:05

judged by the change of control of the body corporate, but shall otherwise 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 take a decision on the application.

(3) For the purposes of this section —

- (a) a person shall be deemed to have control of a body corporate —
- (i) if the person or his nominee holds, or the person and his nominee hold, a total of twenty per cent or more of the issued equity shares in the body corporate;
 - (ii) if the person is entitled to appoint, or prevent the appointment of, half or more than half of the directors of the body corporate; 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 the issued equity shares in the body corporate;
- (b) "equity shares", in relation to a body corporate, means shares in the body corporate carrying voting rights in all circumstances at any general meeting of the body corporate, and includes preference 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 any other class or 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 include 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.

is unsafe, unless and until such action as is necessary for safety and specified in the direction is taken by the licensee and completed;

- (g) 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
- (h) 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.

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

(3) Any person who is aggrieved by a decision or direction of an Inspector made under subsection (1) may appeal in writing to the Minister, who shall, as soon as practicable and after giving the appellant and the Inspector a reasonable opportunity of being heard, determine and dispose of the appeal, but the bringing of the appeal shall not affect the operation, pending the disposal of the appeal, of the decision or direction appealed from.

(4) On appeal under subsection (3), the Minister may rescind, affirm or modify the decision or direction appealed from.

(5) While exercising his powers under subsection (1), an Inspector may be accompanied by any person who the Inspector believes has special or expert knowledge of any matter being inspected, analysed, tested or examined.

(6) A person who is an occupier, or in charge of any area, structure or building, or in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in subsection (1), shall provide an Inspector with all reasonable facilities and assistance (including the provision of necessary means of trans-

- (b) in the case of a body corporate to a fine of twenty-five thousand dollars and imprisonment for one year.

64. Any person who —

Penalty for giving false information, etc.

- (a) in, or in connection with, any application under this Act or his licence gives or permits to be given information which he knows or has reason to believe is false or misleading in a material particular;
- (b) in any report, return or affidavit submitted in pursuance of this Act or his licence, includes or permits to be included any information which he knows or has reason to believe 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 other substance in any place with the intention of misleading, or knowing that it is likely to mislead, any other person as to the possibility of a petroleum reservoir existing in that place,

shall, on summary conviction, be liable —

- (i) in the case of an individual, to a fine of five thousand dollars and imprisonment for one year;
- (ii) in the case of a body corporate, to a fine of twenty-five thousand dollars and imprisonment for one year.

65. (1) Without prejudice to any other provision of this Act, where the Minister has reason to believe that a person has in his possession or in his power information or data relating to prospecting operations or production operations, or petroleum obtained or the value thereof, he may, by notice, require that person —

Minister's power to obtain information relating to prospecting or production operations.

- (a) to furnish to the Minister the information or data within the period and in the manner specified in the notice;
- (b) to attend before a person identified in the notice at such time and place specified therein and to answer questions relating to those operations

officer of the body corporate, or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of the offence and liable to be proceeded against and punished accordingly.

67. (1) Where a person is convicted of an offence against this Act, the court convicting him may, in addition to any other penalty imposed, make — Orders of forfeiture on conviction for certain offences.

- (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 recovered, in the course of the commission of the offence; or
 - (ii) for the payment, by the person convicted, to the State of an amount equal to the proceeds of the sale of petroleum so recovered; or
 - (iii) for the payment by that person to the State of the value at the wellhead, assessed by the court, in respect of the quantity of petroleum so recovered or for the payment of such a part of that amount as the court, having regard to all the circumstances of the case, 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 that made the order may, upon application made in that behalf by the Chief Inspector set aside the order and make an order referred to in subsection (1) (b) (ii) or (iii).

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

69. (1) The Minister may —

- (a) for the purpose of giving effect to any treaty.

Directions to give effect to treaty, etc.

PART IX
REGULATIONS

70. (1) The Minister may make regulations for carrying out the purposes of this Act. ^{Power to make regulations.}

(2) Without prejudice to the generality of the foregoing, the regulations may, in particular, provide for all or any of the following matters:—

- (a) the prospecting for petroleum, including the carrying on of all operations and the execution of all works for that purpose;
- (b) the production of petroleum, including the carrying on of all operations and the execution of all works for that purpose;
- (c) conservation and prevention of the waste or petroleum or other natural resources;
- (d) the form and contents of, and conditions with respect to, an application for the grant or renewal of licence;
- (e) the construction, erection, maintenance, operation or use of installations, machinery or equipment;
- (f) the control of the flow and the prevention of the escape of petroleum, water, gases (other than petroleum) or other noxious or deleterious matters;
- (g) the prevention of the escape of drilling fluid, or a mixture of drilling fluid and water or any other matter;
- (h) the removal of structures, machinery, equipment and other property brought into Guyana, in connection with the prospecting for, or the production or conveyance of, petroleum, that are not used or intended to be used in connection with that prospecting, production or conveyance;
- (i) the pressure maintenance in, or the repressuring of a petroleum reservoir and recycling of petroleum:

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- (y) land or area or nature of land or area or the persons whose consent is required for the purposes of section 52(1) (f);
- (z) any other matter that may be, or is required to be, prescribed by the Minister.

(3) The Regulations may provide that any person who commits a breach of any Regulation shall, on summary conviction, be liable for such penalty as may be provided therein, being a fine not exceeding twenty-five thousand dollars or imprisonment for a period not exceeding three years or both such fine and imprisonment and where the offence is a continuing one, to a further penalty not exceeding one thousand dollars for each day during which the offence continues.

PART X

REPEAL

71. Sections 3 to 15 (inclusive) of the Petroleum (Production) Act are hereby repealed.

Cap. 65:05

Passed by the National Assembly on 1986-04-14.

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

Bill No. 1/1986