

CHAPTER 65:10

PETROLEUM (EXPLORATION AND PRODUCTION) ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTION

1. Short title and application.
2. Interpretation.

PART II

ADMINISTRATION

3. Chief Inspector and Inspectors.
4. Restriction of disclosure of information.
5. Prohibition against holding licence, etc. by certain persons.
6. Indemnity.
7. Service of documents.

PART III

REGULATION OF PROSPECTING FOR AND PRODUCTION OF PETROLEUM

8. Regulation of searching for or getting petroleum.

PART IV

LICENCES

Chapter 1

General

9. Restriction on persons to whom licence may be granted.

LAWS OF GUYANA

4

Cap. 65:10 *Petroleum (Exploration and Production)*

SECTION

10. Agreement with respect to grant of licence.
11. Form of application for licence, etc.
12. Publication of application for licence.
13. Bond by applicant for performance of conditions upon grant of licence.
14. Notice of decision on application.
15. Power of Minister to obtain information from applicant for licence.
16. Form of licence and publication of grant of licence.
17. Restriction on exercise of rights by licensee.
18. Directions by Minister.
19. Doing of things directed to be done.

Chapter 2

Petroleum Prospecting Licence

20. Application for petroleum prospecting licence.
21. Grant of petroleum prospecting licence.
22. Contents of petroleum prospecting licence.
23. Rights conferred by petroleum prospecting licence.
24. Application for renewal of petroleum prospecting licence.
25. Renewal of petroleum prospecting licence.
26. Term of petroleum prospecting licence.
27. Duties of petroleum prospecting licensee.
28. Relinquishment of prospecting area.
29. Exclusion of block or blocks from prospecting area.

Chapter 3

Steps after Discovery of Petroleum

30. Discovery of petroleum to be notified to Minister.
31. Discovery of petroleum of potential commercial interest.
32. Discovery of petroleum not of potential commercial interest.
33. Investigations.

LAWS OF GUYANA

Chapter 4

Petroleum Production Licence

SECTION

34. Application for petroleum production licence.
35. Grant of petroleum production licence.
36. Restrictions on grant or refusal of petroleum production licence.
37. Contents of petroleum production licence.
38. Rights conferred by petroleum production licence.
39. Application for renewal of petroleum production licence.
40. Renewal of petroleum production licence.
41. Term of petroleum production licence.

Chapter 5

Cancellation of Licence and Force Majeure

42. Cancellation.
43. Force majeure.

Chapter 6

Unit Development

44. Unit development.

PART V

FINANCIAL

45. Royalty on petroleum obtained under licence.
46. Prohibition on disposal of petroleum.
47. Guarantee for compliance with Act and licence.
48. Penalty for late payments.
49. Remission of royalty, etc.
50. Recovery of royalty.

LAWS OF GUYANA

6

Cap. 65:10 *Petroleum (Exploration and Production)*

PART VI

MODIFICATION OF TAX LAWS

SECTION

51. Order to modify tax laws in respect of licensee.

PART VII

RESTRICTION ON RIGHTS OF LICENSEE AND SURFACE RIGHTS

52. Restriction on exercise of rights in relation to certain lands.
53. Drilling near railway, etc.
54. Avoidance of interference with mining operations, etc.
55. Right to graze stock, etc.
56. Compensation.
57. Notice of intention to commence prospecting operations, etc.
58. Acquisition of land for prospecting or production operation.

PART VIII

MISCELLANEOUS

59. Permission for geological or geophysical survey.
60. Control of body corporate not to be given without consent of Minister.
61. Power of entry, etc.
62. Obstruction of licensee.
63. Restriction on removal of petroleum.
64. Penalty for giving false information, etc.
65. Minister's power to obtain information relating to prospecting or production operations.
66. Offence committed by body corporate.
67. Orders of forfeiture on conviction for certain offences.
68. Obligation of licensee to indemnify State.
69. Directions to give effect to treaty, etc.

LAWS OF GUYANA

Petroleum (Exploration and Production) **Cap. 65:10**

7

PART IX

REGULATIONS

SECTION

70. Power to make regulations.

CHAPTER 65:10

PETROLEUM (EXPLORATION AND PRODUCTION) ACT 3 of 1986

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

[14TH APRIL, 1986]

PART I

PRELIMINARY

1. (1) This Act may be cited as the Petroleum (Exploration and Production) Act. Short title 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— Interpretation.

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

“body corporate” means a company or a corporation; “company” has the same meaning as in the Companies Act; “condition” includes any term, prohibition, limitation and stipulation; c. 89:01

LAWS OF GUYANA

“corporation” means a corporate body incorporated in or outside Guyana, but does not include a company;

“discovery block”, in relation to a prospecting area, means a block in the prospecting area comprising the geological feature, as outlined by the relevant geological or geophysical data, in which a discovery of petroleum is located;

“discovery of petroleum” means a discovery of petroleum, not previously known to have existed, recoverable at the surface in a flow which can be measured by conventional petroleum industry testing methods;

“drilling” means the perforation of the earth’s surface, otherwise than by pitting, trenching or sinking a shaft, 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 materials (including water) and the filling of wellheads, coring and logging, and any operations incidental to the foregoing;

“exploration for petroleum” means exploration for the purpose of discovering petroleum and includes geological, geophysical and geochemical surveys, exploration drilling and appraisal drilling;

“good oilfield practices” means all those things that are generally accepted as good, safe and efficient in the carrying on of prospecting for petroleum or, as the case may be, operations for the production of petroleum;

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

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

LAWS OF GUYANA

“Inspector” means a person designated as Chief Inspector or as Inspector under section 3;

“land” includes land beneath water and the sea-bed, and the subsoil of such land and the sea-bed;

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

“licensee” means the holder of a licence;

“petroleum” means—

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

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

“petroleum agreement” means an agreement in respect of any of the matters referred to in section 10;

“petroleum reservoir” means a naturally occurring discrete accumulation of petroleum;

“prescribed” means prescribed by regulations made by the Minister;

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

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

LAWS OF GUYANA

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

“prospecting operations” means operations carried out for, or in connection with, exploration for petroleum;

“the Regulations” means the regulations made under this Act;

“well” means a hole in land made by drilling in the course of prospecting or production operations, but does not include a seismic shot hole.

(2) In this Act, a reference to—

(a) “Guyana” includes a reference to the territorial sea, the continental shelf, and the exclusive economic zone, of Guyana as lawfully determined from time to time;

(b) a year of the term of a licence shall be deemed to be a reference to a period of three hundred and sixty-five days commencing on the date from, and including, which the licence has effect or any anniversary of that date;

(c) the conditions of a licence shall be deemed to be a reference to the conditions subject to which the licence is granted, as modified from time to time;

(d) the surrender of a licence, in relation to any block or blocks, shall be deemed, as the context requires, to be a reference to the relinquishment, by the holder of a petroleum prospecting licence, of the block or blocks under section 28(1), exclusion of the block or blocks from a prospecting area under 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.

Chief
Inspector and
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.

Restriction of
disclosure of
information.
[6 of 1997]

(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;

LAWS OF GUYANA

(e) for, or in connection with, the preparation by or on behalf of the State of statistics, in respect of prospecting or production operations relating to petroleum;

(f) for, or in connection with, the determination of any liability of the licensee to make any payments to the State or the Government;

(g) for, or in connection with, any matter or purpose specified in a petroleum agreement.

(3) Where a licensee is a party to a petroleum agreement the right of the licensee, his servants or agents to disclose information about prospecting or production operations under the licence shall be subject to any restrictions or limitations in that respect specified in the agreement.

(4) Any person who discloses information in contravention of this section shall, on summary conviction, be liable to a fine of seventy-five thousand dollars and imprisonment for three years.

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

Prohibition
against
holding
licence, etc. by
certain
persons.
[6 of 1997]

5. (1) In this section—

(a) “member of the family”, in relation to a relevant person, means—

- (i) the husband or wife, or reputed husband or wife; and
- (ii) the son or daughter (in either case being a minor), whether born in or outside wedlock, of the relevant person;

(b) “relevant person” means an officer of the Government or a member or employee of the Guyana Geology and Mines Commission.

(2) No relevant person shall, in his personal capacity, and in his name or in the name of any member of his family, acquire, hold or attempt to acquire or hold—

- (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 thirty 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,

LAWS OF GUYANA

14

Cap. 65:10 *Petroleum (Exploration and Production)*

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.

Indemnity.

6. (1) No public officer, or employee of the Guyana Geology and Mines Commission, shall be liable for anything done or purported to be done by him in good faith in the course, or for the purpose, of carrying out by him of any function conferred on him by or under this Act.

(2) In this section a reference to anything done shall be deemed to include a reference to anything omitted to be done.

Service of documents.

7. (1) A notice or other document required or permitted to be served on, or given to, a person by or under this Act, may be served or given—

(a) in the case of an individual (other than the Minister), 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, 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;

(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 the secretary, or person performing the functions of the secretary, at any office of the body corporate.

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

LAWS OF GUYANA

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

PART III

REGULATION OF PROSPECTING FOR AND PRODUCTION OF PETROLEUM

8. (1) No person shall search for in, or get from, any land in Guyana petroleum except—

(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.

Regulation of searching for or getting petroleum.
[6 of 1997]

c. 65:05

(2) Any person who contravenes subsection (1) shall, on summary conviction, be liable to a fine of seventy-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.

LAWS OF GUYANA

(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.

Agreement
with respect to
grant of
licence.

10. The Minister 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 other person (including any body corporate to be formed), identified in the agreement, of a licence;

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

(c) the procedure to be followed by the Minister while exercising any discretion conferred upon him by or under this Act and the manner in which the discretion shall be exercised;

(d) any matter incidental to or connected with the foregoing.

Form of
application for
licence, etc.

11. An application under this Act for a licence—

(a) shall be made in accordance with the Regulations;

(b) shall be made in such form and shall state such particulars as may be prescribed;

(c) shall be made to the Minister;

(d) may be withdrawn by the applicant by giving notice of withdrawal to the Minister; and

(e) shall be accompanied by such fees as may be prescribed.

LAWS OF GUYANA

12. 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—

Publication of application for licence.

- (a) publish details of his application at the time or times, and in the manner, specified in the notice; and
- (b) give details of his application to the persons, and in the manner, specified in the notice.

13. The Minister may require an applicant for the grant or renewal of a licence to execute a bond, satisfactory to the Minister, for the performance and the observance by the applicant of the conditions of the licence upon grant or renewal thereof or to make arrangements, satisfactory to the Minister, for the execution of such a bond.

Bond by applicant for performance of conditions upon 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 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 information from applicant for licence.

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

LAWS OF GUYANA

(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

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

Form of licence and publication of grant of licence.

16. (1) A licence shall be in accordance with such form as may be prescribed.

(2) The Minister, shall, as soon as may be practicable after a licence has been granted, cause notice of that fact to be published in the *Gazette* stating the name of the licensee and the situation of the land in respect of which the licence has been granted.

Restriction on exercise of rights by licensee.

17. Nothing in this Act shall be construed—

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

(b) where the doing of any act is regulated by any other written law, as authorising a licensee to do that act—

LAWS OF GUYANA

- (i) otherwise than in accordance with that written law and any authority referred to in subparagraph (ii), and
- (ii) without first obtaining any authority (however described) required under that written law for the doing of the act.

18. (1) Subject to the Regulations, the Minister may, by notice served on a licensee, give to the licensee any direction, consistent with good oilfield practices, as to any matter with respect to which regulations may be made under section 70 and any such direction shall be complied with within the time specified therefor by the Minister or, where the time within which the direction shall be complied with is not specified by the Minister, with all convenient speed and as often as the occasion for such compliance arises.

Directions by
Minister.
[6 of 1997]

(2) A licensee who fails or neglects, without reasonable cause, to comply with any direction given under subsection (1), in accordance with that subsection, shall, on summary conviction, be liable to a fine of thirty thousand dollars and imprisonment for two years.

19. Where a licensee fails or neglects to comply with a direction given to him under section 18, notwithstanding that the licensee who failed to comply with the direction may have been convicted under section 18(2), 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 shall be recoverable by the Minister in the same manner as revenues due to the State may be recovered.

Doing of
things directed
to be done.

Chapter 2

Petroleum Prospecting Licence

20. (1) Subject to this Act, any person may make an application for the grant of a petroleum prospecting licence in respect of any block or blocks.

Application
for petroleum
prospecting
licence.

(2) Without prejudice to the provisions of subsection (1), the Minister may, by notice in the *Gazette*—

LAWS OF GUYANA

20

Cap. 65:10 *Petroleum (Exploration and Production)*

- (a) invite applications for the grant of a petroleum prospecting licence in respect of the block or blocks specified in the notice;
- (b) specify the period within which an application may be made; and
- (c) specify the conditions subject to which any application may be made.

Grant of petroleum prospecting licence.

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

(2) A petroleum prospecting licence shall not be granted to an applicant 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.

Contents of petroleum prospecting licence.

22. (1) A petroleum prospecting 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, including conditions necessary to give effect to any petroleum agreement entered into by the applicant for the licence; 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 prospecting licence provision with respect to the exercise by the State, or any agency thereof 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.

(3) The Minister may specify in a petroleum prospecting licence an initial period not exceeding six months as the preparation period to enable the licensee to make the necessary preparation to carry on prospecting operations.

23. 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 licence is otherwise subject, the exclusive right to explore for petroleum, and the right to carry on such operations and execute such works as are necessary for that purpose, in the prospecting area to which the licence relates.

Rights conferred by petroleum prospecting licence.

24. (1) Subject to this Act, a person who holds a petroleum prospecting licence may apply for the renewal of the licence, but not more than twice, in accordance with the Regulations.

Application for renewal of petroleum prospecting licence.

(2) Subject to a petroleum agreement, the number of blocks in respect of which an application for the 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—

- (a) the licence was granted, where the application is for the first renewal of the licence; or
- (b) the licence was first renewed, where the application is for the second renewal of the licence.

(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.

LAWS OF GUYANA

22

Cap. 65:10 *Petroleum (Exploration and Production)*

Renewal of
petroleum
prospecting
licence.

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:

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

(b) if the applicant has within the time allowed therefor remedied the default or, where the default cannot be remedied, paid to the Minister, in respect thereof, adequate

compensation, or has made representation in relation to the default and the Minister is satisfied either that there is no default or that there are adequate reasons for the failure on the part of the applicant to remedy the default.

26. (1) Subject to the other provisions of this section, a petroleum prospecting licence, unless sooner determined by surrender or cancellation under this Act, shall by virtue of this subsection continue in force—

Term of petroleum prospecting licence.

(a) for any preparation period specified in the licence pursuant to section 22(3);

(b) for the period stipulated in the licence, not exceeding four years next after the date of the grant of the licence or, if there is a preparation period, next after the expiration of that period;

(c) for any period, not exceeding three years on each occasion, for which the licence is renewed pursuant to section 25; and

(d) for any period added pursuant to section 43(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 by surrender or cancellation under this Act, continue in force in respect of any block to which the licence relates, if an application has been duly made for the grant of—

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

(b) a petroleum production licence in relation to that block, until the application is finally dealt with by the renewal of, or refusal to renew, the petroleum prospecting licence, or, as the case may be, by the grant of, or refusal to grant, the petroleum production licence, or until the application lapses.

(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

LAWS OF GUYANA

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).

Duties of
petroleum
prospecting
licensee.

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:

Provided that—

(a) the licensee shall forthwith give notice in writing to the Minister of any such amendment, giving in the notice details of and the reason 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 or made during the term of the petroleum prospecting licence.

(5) Where the holder of a petroleum prospecting licence fails to carry out any part of the requirement with respect to work and expenditure stipulated in the petroleum prospecting licence, or of each programme submitted by him pursuant to subsection (2), then, without prejudice to any other right which may be invoked by the Minister in respect of that failure, the relevant provision of the licence (if any) shall apply for the purpose of determining the liquidated damages payable to the State by the licensee on account of such failure.

(6) The requirement in subsection (2) with respect to an adequate programme with respect to work and expenditure shall be deemed to have been met in any case where the programme submitted pursuant to that subsection is consistent with the requirements (if any) with respect to work and expenditure contained in a petroleum agreement.

(7) For the purposes of subsection (2), where any preparation period is specified in a petroleum prospecting licence pursuant to section 22(3), the date of the grant of the licence shall be deemed to be the date immediately following the expiration of that period.

28. (1) The holder of a petroleum prospecting licence may at any time when the licence is in force, by giving to the Minister not less than three months previous notice of his intention to do so, relinquish any block or blocks in the prospecting area identified in the notice.

Relinquish-
ment of
prospecting
area.

LAWS OF GUYANA

(2) Any relinquishment pursuant to subsection (1) shall be without prejudice to any obligation incurred by the holder of the petroleum prospecting licence in respect of the area relinquished prior to the date of the relinquishment.

(3) Subject to a petroleum agreement, any block or blocks relinquished under subsection (1) shall, unless the Minister 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.

Exclusion of block or blocks from prospecting area.

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.

Chapter 3

Steps after Discovery of Petroleum

Discovery of petroleum to be notified to Minister.

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

(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—

(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 specified in the notice, to ascertain the chemical composition and physical properties of the petroleum.

(3) The Minister may, by instrument in writing, 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 instrument of exemption.

31. (1) Where petroleum has been discovered in a prospecting area and the licensee has, pursuant to section 30 (1) (a) (iii), submitted to the Minister evaluated test results in respect of the discovery, the licensee shall, within thirty days of the date of submission of the 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.

Discovery of petroleum of potential commercial interest.

LAWS OF GUYANA

(2) Where a notice served under subsection (1) states that the discovery of petroleum in any prospecting area is, in the opinion of the licensee, of potential commercial interest, the licensee may, unless the licence is sooner determined by surrender or cancellation under this Act, within a period of two years after the date on which such notice is so served, apply under section 34(1) for the grant of a petroleum production licence in respect of the discovery block or blocks in the prospecting area or in respect of any part thereof:

Provided that the Minister may, on application in that behalf made by the licensee, if the Minister is of the opinion that there are reasonable grounds for doing so, by instrument in writing allow the licensee such further time, which in his 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 from the date so specified in respect of the whole or part, as the case may be, of such discovery block or blocks.

Discovery of petroleum not of potential commercial interest.

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, of 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.

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

(a) he has given to the licensee a notice of his intention to do so;

(b) he has specified in that notice a reasonable time within which the licensee may make representation with respect to that notice; and

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

33. (1) Where the licensee has served, under section 31(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 notice served on the licensee, direct the licensee to carry out, within a period specified in the notice of not less than two years, such prescribed investigations and studies as the Minister thinks appropriate 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.

Investigations.

LAWS OF GUYANA

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

Chapter 4

Petroleum Production Licence

Application
for petroleum
production
licence.

34. (1) A licensee whose petroleum prospecting licence is in force may, within the period of two years specified in section 31(2) or within such further period as may be allowed by the Minister under the proviso thereto, apply under this subsection for the grant of a petroleum production licence in respect of any discovery block or blocks in the prospecting area, or in respect of any part thereof, which following appraisal, can be shown to contain a petroleum reservoir or part of a petroleum reservoir.

(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 experience to carry on effective production operations;

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

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

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

(vi) the exercise of any option given to the State under section 22(2) has been satisfactorily completed or arrangements satisfactory to the Minister have been made for that purpose; or

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

LAWS OF GUYANA

32

Cap. 65:10 *Petroleum (Exploration and Production)*

(2) The Minister shall not refuse an application under section 34(1) for the grant of a petroleum production licence unless—

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

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

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

(b) the applicant has not, within the date so specified—

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

(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.

Contents of
petroleum
production
licence.

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 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—

Rights conferred by petroleum production licence.

(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 for, or in connection with, any matter referred to in paragraph (a) or (b).

39. A holder of a petroleum production licence may apply, in accordance with the Regulations, for the renewal of the licence, but not more than once.

Application for renewal of petroleum production licence.

40. (1) Subject to subsections (2) and (3), on application duly made under section 39 for the renewal of a petroleum production licence, the Minister may grant a renewal of the licence on such conditions as he deems fit, or refuse to grant a renewal.

Renewal of petroleum production licence.

(2) The Minister shall refuse to grant a renewal of a petroleum production licence if the licensee is in default unless in the opinion of the Minister special circumstances exist which justify the granting of the renewal notwithstanding the default.

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

LAWS OF GUYANA

34

Cap. 65:10 *Petroleum (Exploration and Production)*

Term of petroleum production licence.

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

- (a) for a period of twenty years next after the date of the grant of the licence;
- (b) for any period for which the licence is renewed under section 40; and
- (c) for any period added pursuant to section 43(3) to the term of the licence.

(2) Notwithstanding the expiry of the term of a petroleum production licence, the licence shall, unless sooner determined by surrender or cancellation under this Act, continue in force by virtue of this subsection, in respect of any block to which the licence relates if an application has been duly made for the grant of a renewal of the licence in respect of that block, until—

- (a) the application is finally dealt with by the grant of, or refusal to grant, the renewal; or
- (b) the application lapses.

Chapter 5

Cancellation of Licence and Force Majeure

Cancellation.

42. (1) Subject to this section and section 43, where a licensee 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
 - (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 being 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 an 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 proposed reconstruction.

LAWS OF GUYANA

(5) Subject to the provisions of a petroleum agreement, where two or more persons, associated together in any form of joint arrangement, 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 so to do under that subsection if any other person or persons constituting the licensee satisfy the Minister that he or they, 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 shall, on the application of a licensee, cancel by instrument his petroleum production licence either wholly or in relation to any block or blocks on such conditions (if any) as the Minister may specify in the instrument.

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

Force majeure.

43. (1) Any failure on the part of a licensee to fulfil any condition of his licence or to meet any requirement of this Act or a petroleum agreement shall not be a breach of the licence, this Act or the agreement, as the case may be, to the extent that 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 petroleum agreement as constituting *force majeure* for the purposes of this section.

(2) Where a licensee fails to fulfil any of the conditions of his licence 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 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.

Unit
development.

(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

LAWS OF GUYANA

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, and to lodge the agreement with the Minister forthwith for approval.

(4) Where—

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

(b) a licensee enters into such agreement but the agreement is not lodged with the Minister in accordance with subsection (3); or

(c) the agreement is lodged with the Minister pursuant to subsection (3) but not approved by the Minister,

the Minister may by notice in writing served on the licensee 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 licensee shall do so and the scheme as approved by the Minister with or without modifications shall be binding on every licensee whose production area includes part of the petroleum reservoir.

PART V

FINANCIAL

Royalty on petroleum obtained under licence.

45. (1) Subject to this Act, the holder of a petroleum production licence shall, in accordance with his licence and this Act, pay to the Government royalty in respect of petroleum obtained by him in the production area to which the licence relates.

(2) Where royalty to be paid by a licensee is payable in kind, for the purposes of section 43(4) and this Part, reference to “payment” shall be construed as reference to delivery of the petroleum and cognate expressions shall be construed accordingly.

LAWS OF GUYANA

46. (1) If the holder of a petroleum production licence fails to pay any royalty payable by him on or before the due date, or any further time allowed by the Minister, the Minister may, by notice served on the holder of the licence, prohibit the removal of, or any dealings in, or with, any petroleum from the production area concerned, or from any other production area 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.

Prohibition on disposal of petroleum.
[6 of 1997]

(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 seventy-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.

LAWS OF GUYANA

40

Cap. 65:10 *Petroleum (Exploration and Production)*

Remission of
royalty, etc.

49. The Minister may, on application made to him by a licensee and after consultation with the Minister assigned responsibility for finance, by order—

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

(b) defer payment of any royalty, on such conditions (if any) as he may specify in the order.

Recovery of
royalty.

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.

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

(3) Where royalty to be paid by a licensee is payable in kind, the price of the petroleum payable as royalty computed as on the date on which it became payable, and any penalty payable under section 48 on account of the failure to pay the royalty on or before the date on which it became payable, may be recovered in accordance with subsections (1) and (2).

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

PART VI

MODIFICATION OF TAX LAWS

Order to
modify tax
laws in respect
of licensee.
[4 of 1992]

51. (1) The Minister assigned responsibility for finance may, by order, which shall be subject to affirmative resolution of the National Assembly, direct that any or all of the written laws mentioned in subsection (2) shall not apply to, or in relation to, a licensee where the licensee has entered into a production sharing agreement with the Government of Guyana.

LAWS OF GUYANA

(2) The written laws referred to in subsection (1) are—

- | | |
|--|----------|
| (a) the Income Tax Act; | c. 81:01 |
| (b) the Income Tax (In Aid of Industry) Act; | c. 81:02 |
| (c) the Corporation Tax Act; and | c. 81:03 |
| (d) the Property Tax Act. | c. 81:21 |

PART VII

RESTRICTION ON RIGHTS OF LICENSEE AND SURFACE RIGHTS

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

Restriction on exercise of rights in relation to certain lands.

(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;

LAWS OF GUYANA

42

Cap. 65:10 *Petroleum (Exploration and Production)*

(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;

c. 65:01

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

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

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

(3) In this section “foreshore” means that part of the shore of the sea and of tidal navigable rivers which is covered by the medium high tide between the spring tides and the neap tides.

Drilling near railway, etc.

53. A licensee shall not carry on any drilling operations at any point within two hundred metres of a railway, dam, reservoir, canal or other public work except with the written consent of the President or of any person authorised by him, either specifically or generally, in that behalf, and such consent may be given either conditionally or unconditionally.

Avoidance of interference with mining operations, etc.

54. A licensee shall exercise his rights under this Act and his licence in such a manner as to offer no unnecessary, or reasonably avoidable, obstruction or interruption to any mining or exploration operations being carried on in the land subject to the licence, or lands adjacent thereto, in respect of minerals other than petroleum, or prospecting or production operations being carried on in lands adjacent to the land subject to the licence.

LAWS OF GUYANA

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

Right to graze stock, etc.

(2) The lawful occupier of any land in a production area shall not erect any building or structure in the area without the consent of the holder of the petroleum production licence; but if the Minister considers that the consent is being unreasonably withheld the Minister may give in writing his consent to the lawful occupier for doing so and thereupon the lawful occupier may do so subject to the conditions (if any) imposed by the Minister.

(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

LAWS OF GUYANA

44

Cap. 65:10 *Petroleum (Exploration and Production)*

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.

Notice of intention to commence prospecting operations, etc.

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.

Acquisition of land for prospecting or production operation.

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

c. 62:05

(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.

PART VIII

MISCELLANEOUS

Permission for geological or geophysical survey.

59. (1) The Minister may permit any person to carry on geological, geophysical and other surveys and investigations in Guyana which in his opinion are relevant for the identification of petroleum reservoir or for the prospecting for, or production of, petroleum, on such terms and conditions as may be agreed to between him and the applicant for the permission.

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

- (a) the period for which the permission is granted;
- (b) furnishing to the Minister information obtained as a result of any survey or investigation referred to in that subsection;

- (c) restrictions, if any, on the dissemination to any person other than the Minister of any information obtained as a result of the survey or investigation; and
- (d) payment to the Government of fees for the grant of the permission.

60. (1) A body corporate which is the holder of a petroleum production licence shall not, without the prior consent in writing of the Minister—

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

- (a) register the transfer of any equity share or shares in the body corporate to any particular person or his nominee; or
- (b) enter into any 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, in the case mentioned in paragraph (a), to the particular person or, in the case mentioned in paragraph (b), the particular person or any other person, control of the body corporate.

(2) On application duly made to the Minister in writing for his consent under this section, the Minister shall give his consent if he considers that public interest would not be prejudiced 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;

LAWS OF GUYANA

(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.

Power of
entry, etc.
[6 of 1997]

61. (1) For the purposes of this Act an Inspector may, at all reasonable times—

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

(b) inspect and test, or cause to be tested by a qualified person, any machinery or equipment which, in the opinion of the Inspector, has been, is being, or is to be, used in connection with any of the operations referred to in paragraph (a);

(c) take or remove for the purpose of analysis or testing or for use in evidence in connection with an offence under this

Act samples of petroleum, water or other matter or thing from a well;

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

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

(f) direct the licensee in writing to effect-

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

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

(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.

LAWS OF GUYANA

(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 transport) for the effective exercise of the powers conferred upon an Inspector by this section.

(7) Any person who—

(a) without reasonable excuse, obstructs or hinders an Inspector in the exercise of any of his powers under this section;

(b) knowingly or recklessly makes a statement or produces a document, which is false or misleading in any material particular, to or before an Inspector engaged in carrying out his functions under this section; or

(c) with intent to mislead or deceive an Inspector when so engaged, does any act or withholds any information,

shall, on summary conviction, be liable to a fine of thirty thousand dollars and imprisonment for two years.

LAWS OF GUYANA

62. Any person who, without reasonable excuse, obstructs or prevents a licensee in or from doing, any act which the licensee is authorised to do by or under this Act or his licence, shall, on summary conviction, be liable to a fine of fifteen thousand dollars and imprisonment for one year.

Obstruction of licensee.
[6 of 1997]

63. (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—

Restriction on removal of petroleum.
[6 of 1997]

- (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 or under this Act.

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

(3) Any person who contravenes subsection (1) or (2) shall, on summary conviction, be liable—

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

64. Any person who—

- (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

Penalty for giving false information, etc.
[6 of 1997]

LAWS OF GUYANA

(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 fifteen thousand dollars and imprisonment for one year;

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

Minister's
power to
obtain
information
relating to
prospecting or
production
operations.
[6 of 1997]

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 —

(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 or petroleum obtained as a result of the operations, or the value thereof; and

(c) to furnish to a person identified in the notice at the time and place specified therein information or data in his possession or power relating to those operations or petroleum obtained as a result of the operations or the value thereof.

(2) Where any information or data, furnished pursuant to a notice under subsection (1), in relation to any matter mentioned in paragraph (a) or (c) thereof, is contained in a document, the Minister or other person to whom it is furnished may make copies of, or take extracts from, the document.

(3) Any person who—

(a) refuses or fails to comply with a notice under subsection (1) to the extent to which he is capable of complying with it;

(b) in purported compliance with a requirement under subsection (1)(a), knowingly or recklessly furnishes information or data which is false or misleading in any material particular; or

(c) when attending before any person in pursuance of a requirement under subsection (1)(b) or furnishing any information or data to any person in pursuance of a requirement under subsection (1)(c), knowingly or recklessly makes a statement or furnishes any information or data which is false or misleading in any material particular,

shall, on summary conviction, be liable to a fine of thirty thousand dollars and imprisonment for one year.

(4) In this section, “document” includes book, tape, disc, film, diagram, profile, chart, photograph, whether negative or positive, and any data recorded or stored by means of any computer or other device and any material subsequently derived from data so recorded.

66. 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 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.

Offence committed by body corporate.

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.

LAWS OF GUYANA

(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).

Obligation of licensee to indemnify State.

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.

Directions to give effect to treaty, etc.

69. (1) The Minister may—

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

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

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

(i) restricting his operations in the prospecting or production area to which the licence relates in such manner or to such extent as may be specified in the direction;

(ii) prohibiting him from carrying on any operations in the whole of such prospecting or production area or such part thereof as may be specified in the direction;

(iii) where only part of a petroleum reservoir is located in such production area and the other or any other part of the petroleum reservoir is located in any country other than Guyana and there are one or more persons lawfully entitled to recover petroleum from such part of the petroleum reservoir as is located in such country other than Guyana, requiring the licensee to enter into an agreement in writing with any such person or persons, within such time as may be specified therefor in the direction, for the unit development of that petroleum reservoir:

Provided that the Minister may, on good and sufficient cause shown by the licensee to whom the direction is issued, extend the time so specified from time to time.

(2) A licensee shall comply with any direction issued to him under subsection (1) and if he fails to do so he shall be deemed to have committed a breach of a condition of the licence and accordingly the provisions of this Act relating to the consequence of the breach of a condition of a licence shall apply thereto.

(3) In this section “unit development” has the meaning assigned to it by section 44.

PART IX

REGULATIONS

70. (1) The Minister may make regulations for carrying out the purposes of this Act.

Power to make regulations.
[6 of 1997]

(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 of 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;

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

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

(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 cores, cuttings and samples of petroleum and water;

(o) giving to the Minister reports, 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;

(u) the division of the geographic area of Guyana into graticular sections;

(v) subject to any other provision of this Act, the manner of service of any notice or other document; and the form of any notice;

(w) public purpose for the purpose of section 52(1) (a);

(x) distances for the purposes of section 52(1) (b), (c) and (d);

(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 seventy-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 three thousand dollars for each day during which the offence continues.