

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE PETROLEUM (EXPLORATION AND PRODUCTION) ACT

CHAPTER 440 OF THE LAWS OF ZAMBIA

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ACT**

THE PETROLEUM (EXPLORATION AND PRODUCTION) ACT

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CHAPTER 440

PETROLEUM (EXPLORATION AND PRODUCTION) ACT

Act No.
13 of 1985
1 of 1993
13 of 1994
15 of 1996

An Act to regulate petroleum exploration, development and production in Zambia; to provide for title to and control of petroleum in Zambia; to provide for the establishment of a Petroleum Committee; to define the functions and powers of the Committee; to regulate contracts relating to petroleum operations; and to provide for matters connected with or incidental to the foregoing.

[12th April, 1985]

PART I

PRELIMINARY

1. This Act may be cited as the Petroleum (Exploration and Production) Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Chairman" means the person designated Chairman of the Committee by section *five*;

"Commercial discovery" means a discovery of petroleum which can be exploited commercially in accordance with accepted practices in the international petroleum industry;

"Committee" means the Petroleum Committee established by section *four*;

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"Contract" means any agreement between the State and a contractor entered into pursuant to this Act for the conduct of petroleum operations in the Republic;

"Contractor" means any person with whom the State enters into a contract; and includes his agents, representatives and assignees;

"Contract Area" means a geographical area which is covered by a contract; and includes the whole of, or such part or parts of, the original area awarded to a contractor as shall remain at the disposal of such contractor from time to time pursuant to the terms of the contract;

"Crude oil" means petroleum which is in liquid state at the well head or gas/oil separator or which is extracted from natural gas, including any distillate or condensate;

"Development and production period" shall be construed in accordance with section *twenty-seven*;

"Exploration period" shall be construed in accordance with section *twenty-seven*;

"Member" means a member of the Committee;

"Minerals" shall have the meaning assigned thereto in the Mines and Minerals Act; but shall not include petroleum; Cap. 213

"Natural gas" means all petroleum which at atmospheric conditions of temperature and pressure is in a gaseous state; and includes wet mineral gas, dry mineral gas, wet gas and residue gas remaining after the extraction, processing or separation of liquid petroleum from wet gas, as well as non-petroleum gas or gases produced in association with liquid or gaseous petroleum;

"Petroleum" means all natural organic substances composed of carbon and hydrogen; and includes crude oil and natural gas, and all other mineral substances, products, by-products and derivatives that are found in conjunction with petroleum;

"Petroleum operations" means the operations related to the exploration, development, extraction, production, field separation, transportation, storage, sale or disposal of petroleum; but does not include any transportation or other operations-

- (i) beyond the point of export; or
- (ii) in the case of petroleum which is processed within Zambia, beyond the point of entry into a refinery or liquefaction or natural gas treatment plant;

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"Register" means the petroleum register maintained pursuant to section *fourteen* of this Act;

"Vice-Chairman" means the person designated Vice-Chairman of the Committee by section *five*.

3. (1) The entire property in and control over all petroleum and accompanying substances, in whatever physical state, located on or under the territory of the Republic is vested exclusively in the President on behalf of the State. Title to petroleum

(2) Notwithstanding the provisions of subsection (1), a contract may provide for a person to acquire property in, title to or control over any petroleum within the Republic.

(3) The provisions of subsections (1) and (2) shall have effect notwithstanding any rights which any other person may possess in or over the soil on or under which petroleum is discovered.

PART II

PETROLEUM COMMITTEE

4. There is hereby established the Petroleum Committee which shall be responsible for the formulation of policies relating to petroleum and its development in Zambia and shall perform such other functions as are provided for under this Act. Establishment of Committee and functions

5. The Committee shall consist of the following members:

- (a) the Minister responsible for mines, who shall be Chairman;
 - (b) four Ministers appointed by the President, one of whom shall be designated Vice-Chairman;
 - (c) the Governor of the Bank of Zambia or in his absence the Deputy Governor;
 - (d) not more than three other persons who shall be appointed by the President on such terms and conditions as he may think fit.
- Composition of Committee

6. (1) A member appointed under paragraph (d) of section *five* shall hold office for a period of three years from the date of his appointment and may be re-appointed upon the expiration of such term. Tenure of office

(2) A member referred to in subsection (1) may resign upon giving one month's notice in writing to the President and may be removed by the President at any time.

7. (1) A member shall vacate his office if he is absent from two consecutive meetings of the Committee without reasonable cause. Vacancies

(2) Whenever the office of a member becomes vacant before the expiry of the term specified in section six, the President may appoint another person to be a member:

Provided that such other person shall hold office only for the unexpired term of the person who vacates such office.

8. (1) Subject to the other provisions of this Act, the Committee may regulate its own procedure. Proceedings of Committee

(2) The Committee shall meet, as often as is necessary to carry out its functions, at such places and at such times as the Chairman may decide.

(3) Upon giving notice of not less than five days, a meeting of the Committee may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving shorter notice.

(4) Five members shall form a quorum at any meeting of the Committee.

(5) There shall preside at any meeting of the Committee-

(a) the Chairman; or

(b) in the absence of the Chairman, the Vice-Chairman; or

(c) in the absence of the Chairman and the Vice-Chairman, such member as the members present may elect for the purposes of that meeting.

(6) A decision of the Committee on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

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(7) The Committee may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Committee but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Committee shall not be affected by any vacancy in the membership of the Committee or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings.

(9) The Committee shall cause minutes to be kept of the proceedings of every meeting of the Committee.

9. (1) The Permanent Secretary in the Ministry responsible for mines shall be the Secretary to the Committee. Secretary

(2) The Secretary shall be responsible for the day to day affairs of the Committee under the general supervision of the Chairman.

10. (1) If a member is present at a meeting of the Committee at which any matter is the subject of consideration and in which matter the member or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter. Disclosure of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

11. No action or other proceedings shall lie or be instituted against any member for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act. Immunity of members

PART III

ADMINISTRATION

12. Subject to the provisions of section *four* the Minister shall be responsible for the administration of this Act. Administration of Act

13. The Minister may delegate to any public officer any of his functions under this Act: Delegation of Minister's powers

Provided that the Minister shall not delegate his power to enter into and terminate or revoke any contract.

14. (1) The Minister shall cause to be maintained a register which shall contain the following information: Petroleum register

- (a) in respect of each contract entered into, the names of all persons with whom the contract is made, the names of any assignee of any rights under such contract and a brief description of the duration of the exploration period, and of the contract area for such contract;
- (b) copies of all instruments of approval of contracts entered into pursuant to subsection (1) of section *eighteen* of this Act;
- (c) the contractor's office address in the Republic and the name of its resident representative along with a copy of the powers of attorney establishing such representative's authority to act on behalf of the contractor;
- (d) instruments evidencing the termination, revocation or expiration of contracts;
- (e) a map of the Republic illustrating those areas currently under contract and those which remain available for award in accordance with this Act;
- (f) instruments evidencing-
 - (i) the nature and extent of any areas relinquished or surrendered by a contractor;
 - (ii) the establishment of a commercial discovery of petroleum, the date of declaration thereof, the delimitation of the areas involved and the duration of the development and production period; and
 - (iii) the grant of extensions to the exploration period pursuant to the terms of the contract; and
- (g) such other information as the Minister may determine.

(2) Registration shall not cure any defect in any document registered or confer upon it any effect or validity which it would not otherwise have had.

15. The Minister shall, on application and upon payment of the prescribed fee, allow inspection of the register at all reasonable times and shall, upon request, give copies or extracts from any entry in such register. Inspection of register

16. The Minister shall forward, in such form and manner as he may determine, details of every contract and of any instrument transferring, approving or terminating any contract or any interest therein, as may be entered in the register, to the Provincial Council in whose area the contract area in question is situated.

Information of contracts to be submitted to Provincial Councils

PART IV

GRANT OF RIGHTS TO CONDUCT PETROLEUM OPERATIONS

17. (1) The State reserves the right to carry out petroleum operations either on its own or by means of contracts with any qualified person.

Right to conduct petroleum operations

(2) No petroleum operations shall be conducted in the Republic by any person other than the State unless such person has entered into a contract in accordance with this Act.

18. Subject to the other provisions of this Act, the Minister may issue invitations for bids and, following the approval of the Committee as to his selection of bidders for negotiations, may conduct negotiations and enter into contracts:

Authority to contract

Provided that-

- (i) such contracts shall not become effective until the written approval thereto of the Committee is obtained; and
- (ii) the terms and conditions embodied in such contracts shall not be contrary to or inconsistent with the provisions of this Act.

19. The Minister may, with the approval of the Committee, provide for the State's participation, directly or indirectly, in some or all stages of the petroleum operations and such participation may include the right to participate in the rights and obligations set out in a contract.

State participation

20. (1) A contract shall only be entered into with persons who demonstrate a proven ability to contribute the necessary funds, assets, machinery, equipment, tools and technical expertise necessary for the effective performance of the terms and conditions of the proposed contract.

Qualifications to contract

(2) For the purpose of establishing the ability of a particular person as described in subsection (1), the Minister may require the submission of documentation demonstrating the expertise and technical and economic capability of such person.

21. (1) Except as a nominee of the State, no member, employee or representative of the State or public service shall, directly or indirectly, acquire or hold any right or interest under any contract and any instrument purporting to confer such right or interest on any such person shall be null and void. Prohibitions

(2) No person shall acquire by transfer, assignment or any other means any right or interest under any contract which he is otherwise barred from obtaining in his own behalf under the provisions of this Act.

22. (1) Except as otherwise provided in subsection (3), the selection of contractors shall be carried out through public competitive bidding or such other competitive procedures as may be determined by the Minister. Bids

(2) The Minister shall publish in the *Gazette* a description of the areas for which bids are to be solicited along with the procedures and rules relating to the submission of such bids.

(3) Notwithstanding the preceding subsections, the Minister may, with the approval of the Committee, select contractors other than through competitive bidding procedures in the following cases-

- (a) where the technical or economic circumstances make it advisable; or
- (b) where he determines that the circumstances so require.

23. For the purposes of this Act, the territory of the Republic, or parts thereof, shall be divided into blocks, according to a grid system, in accordance with regulations to be prescribed by the Minister. Blocks

PART V

TYPE AND NATURE OF CONTRACTS

24. (1) Subject to the other provisions of this Act and to any other condition as may be specified in a contract, a contractor shall be entitled for the duration of such contract to the exclusive right to carry out petroleum operations in a contract area, and to freely lift, dispose of and export the petroleum to which he is entitled under such contract. Conditions of contract

(2) Except as may otherwise be provided in a contract, the contractor shall take upon himself all the risks inherent in petroleum operations and shall commit himself to supply exclusively for his account, the technology, capital, equipment, machinery and all other investments required for petroleum operations in the contract area:

Provided that-

- (i) in the fulfilment of this obligation the contractor shall not have recourse to bank credit from institutions, companies or enterprises operating in the Republic; and
- (ii) in the case of termination of a contract due to non-discovery of petroleum, the State shall not be obliged to make any reimbursement to the contractor with respect to the investments made.

25. Each contract shall include the following:

Contents of contract

- (a) the procedures for management and control by the State of petroleum operations;
- (b) the duration of the contract;
- (c) the investment and other obligations of the contractor;
- (d) the requirement that a letter of guarantee be submitted by the contractor to secure the fulfilment of the exploration obligations undertaken;
- (e) provisions regarding the sharing of revenues between the State and the contractor, and terms as to the recovery of expenditures made by the contractor, as applicable to the particular contract;
- (f) a description of the contract area on the effective date of the contract; and
- (g) the procedure for determining the existence of a commercial discovery and for delimiting the area involved.

26. In addition to the provisions of section *twenty-five*, every contract shall require the contractor to undertake the following obligations:

Obligations of contractor

- (a) to employ and train Zambian nationals to the fullest extent possible with a view to the replacement of foreign personnel as soon as may be practicable; such training and employment to be carried out in accordance with a programme approved by the Minister;
- (b) to maintain, and furnish to the Minister, periodic reports, records, returns, samples and data concerning petroleum operations;

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- (c) to keep current financial and cost accounting records of petroleum operations, with pertinent records and vouchers, during the term of the contract, in accordance with normal accounting practices in the international petroleum industry;
- (d) to permit the State or its authorised representatives reasonable inspection and audit rights over all petroleum operations and over all records, reports and returns maintained or submitted to the Minister;
- (e) to purchase Zambian goods and services, if, in terms of price, quality and availability, such goods and services are within such margins of competitiveness with imported goods and services as may be agreed in the contract;
- (f) to expend a minimum amount and carry out certain minimum work in the contract area during the exploration period;
- (g) to present annually to the Minister, complete work programmes and budgets for petroleum operations to be conducted for each year;
- (h) to report immediately to the Minister any discovery of petroleum, and supply a sample thereof to the Ministry within a reasonable time after the date of such discovery;
- (i) in the case of a commercial discovery of petroleum, to delimit the area involved, develop the discovery and commence production with due diligence;
- (j) to appoint, in cases where the contractor is a person who is not resident in the Republic or whose head office is elsewhere than in the Republic, a representative, and in his absence a replacement therefor, with full powers to represent the contractor in all matters relating to petroleum operations, including the obligations imposed by this Act; and
- (k) to supply to the State out of any petroleum to which he is entitled pursuant to the contract such quantity of petroleum as may be required to meet the requirements of the Republic for internal consumption:

Provided that the quantity of petroleum to be so supplied by any contractor shall be determined on a basis that does not discriminate against any individual contractor and that the price therefore shall be fair and reasonable.

27. (1) The term of a contract shall be divided into an exploration period and a development and production period. Term of contract

(2) The exploration period shall not exceed ten years in duration:

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Provided that under exceptional circumstances such duration may be extended for such period and upon such terms and conditions as may be specified in a contract, or as may be approved by the Committee.

(3) Where no commercial discovery is made during an exploration period the contract shall terminate.

(4) Where a commercial discovery is made the development and production period, relating to such discovery, which shall not exceed twenty-five years in duration, shall thereupon commence.

28. Every contract shall provide for the relinquishment of part or parts of the contract area at such time or times as shall be prescribed therein: Relinquish-ment

Provided that the obligation to relinquish part or parts of the contract area shall not apply to any part of the contract area encompassing the area of a commercial discovery.

29. Except with the prior approval of the Minister, no contractor shall assign, encumber or transfer any contract, or any rights or obligations arising out of a contract; and any such transfer, assignment or encumbrance shall be null and void. Transfers and assignments

30. Every contract shall stipulate the terms and conditions upon which the contract may be terminated by the State or the contractor and the effects of such termination: Termination

Provided that the termination of any contract, for whatever reason, shall not affect in any way any liability incurred by a contractor before such termination.

31. Each contractor shall at all times indemnify the State and its representatives and agents against all and any claims made by third parties in respect of any injury, damage or loss caused by an act or omission of the contractor, his contractors, his sub-contractors or his agents, employees or representatives in the course of the conduct of petroleum operations. Duty to indemnify

32. (1) In the conduct of petroleum operations, each contractor, in accordance with generally accepted practices in the international petroleum industry, shall- Conservation and work practices

(a) carry out petroleum operations using the most reliable, modern and efficient techniques;

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- (b) take steps to obtain the maximum efficient level of production, determined in accordance with the terms and conditions of the contract, compatible with the nature and extent of the petroleum reservoirs discovered;
- (c) control the flow and prevent the waste or escape of petroleum, water, drilling fluids, or any mixture thereof;
- (d) generally adopt the necessary measures for the protection of flora, fauna and other natural resources;
- (e) avoid the pollution or contamination of water, atmosphere or land;
- (f) maintain in good condition and repair all structures, equipment and other property used in petroleum operations;
- (g) carry out petroleum operations in a proper, safe and workmanlike manner;
- (h) take all steps necessary to secure the safety, health and welfare of persons engaged in petroleum operations;
- (i) upon the termination of the contract, carry out all clean-up operations and render the contract area safe; and
- (j) at any time completely remove any structure or facility which has ceased to be used.

(2) The procedures for the application and enforcement of such conservation and work practices shall be prescribed in the regulations and may be developed in the contract.

PART VI

AREAS OF OPERATION AND SURFACE RIGHTS

33. The Minister may, with the approval of the Committee, declare certain areas of the Republic to be closed to some or all petroleum operations:

Areas closed to petroleum operations

Provided that-

- (i) such closure shall be without prejudice to existing rights to conduct petroleum operations in the areas concerned; and
- (ii) the Minister may, with the approval of the Committee, permit petroleum operations to be carried out therein, subject to such terms and conditions as he may determine.

34. (1) No person shall, without the written consent of the President, carry out petroleum operations- Restricted areas

- (a) upon any land dedicated as a place of burial;
- (b) upon any land containing any ancient monument or national monument as defined in the National Heritage Conservation Commission Act; Cap. 173
- (c) upon any land which is the site of or is within one hundred metres of any building or dam owned by the Republic;
- (d) upon any land forming part of a Government aerodrome as defined in the Air Navigation Regulations; Cap. 444
- (e) upon any land occupied as a village; or
- (f) upon any land forming part of a defence establishment.

(2) No person shall, without the written consent of the owner or legal occupier thereof or his duly authorised agent, carry out any petroleum operations-

- (a) upon any land which is the site of or which is within two hundred metres of any inhabited, occupied or temporarily unoccupied house or building;
- (b) within fifty metres of any land which has been cleared or ploughed or otherwise *bona fide* prepared for the growing of farm crops or upon which farm crops are growing;
- (c) upon any land from which, during the twelve months immediately preceding, farm crops have been reaped;
- (d) upon any land which is the site of or is within one hundred metres of any cattle dip, tank, dam or any private water as defined in the Water Act; or Cap. 198
- (e) upon any land forming part of an aerodrome, other than an aerodrome referred to in subsection (1)(d):

Provided that where consent is unreasonably withheld, the President may authorise the conduct of petroleum operations in such areas subject to such terms and conditions as he may determine.

(3) No person shall, without the written consent of the President carry out petroleum operations upon any land-

- (a) reserved for the purposes of any railway track or within fifty metres of any railway track;
- (b) used as a forest, nursery or plantation or as a timber depot, sawmill or other installation for working a forest;
- (c) used as a street, road or highway;

and no contractor shall carry out petroleum operations upon any land-

- (d) declared to be a National Forest or a Local Forest, as defined in the Forests Act without complying with the provisions of sections *sixteen* and *twenty-four* of that Act; Cap. 199
- (e) in a National Park, without complying with section *thirty* of the National Parks and Wildlife Act. Cap. 201

(4) Every person carrying out petroleum operations shall, when so requested, produce evidence of the right to carry out such operations to the legal owner or occupier of the land upon which such operations are being carried out, or to the duly authorised agent of such owner or occupier, and in default of such production such person may be treated as a trespasser.

35. (1) Subject to the provisions of this Act or the terms and conditions of any contract, and any other law which prohibits, regulates or restricts the entry into any area of the Republic, the contractor may enter into, occupy and carry out activities necessary for the conduct of petroleum operations in the contract area and whilst engaged therein may:

- (a) within the contract area erect temporary or permanent houses, buildings, engines, machinery, plant and other works, and acquire in the prescribed manner such rights of way, easements and other rights of access as may be necessary for the proper execution of petroleum operations;
- (b) take and use water for domestic use and for the purposes of petroleum operations in accordance with the provisions of the Water Act; Cap. 198

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- (c) subject to the provisions of the Roads and Road Traffic Act and the Aviation Act, construct, maintain and operate all such airfields, roads, bridges, communication systems and conveniences as may be necessary; Cap. 464
Cap. 444
- (d) subject to the provisions of the Water Act, lay water pipes and make water courses and ponds, dams and reservoirs, lay drains and sewers and construct and maintain sewage disposal plants; Cap. 198
- (e) subject to the prior approval of the Minister-
 - (i) construct, reconstruct, alter and operate pipelines, pumping stations and other necessary facilities incidental thereto; and
 - (ii) operate and maintain at any place within the Republic such other facilities and works as may be necessary for carrying out petroleum operations.

(2) The rights conferred by subsection (1) shall be exercised reasonably so as not to affect adversely the interests of any legal owner or occupier of the land on which such rights are exercised to any greater extent than is necessitated by the reasonable and proper conduct of the operations concerned.

(3) Where the contract area includes an area of land which is owned by or vested in the State, such land shall, subject to the other provisions of this Act, be at the disposal of the contractor to the extent required for petroleum operations by virtue of the existence of the contract.

(4) (a) Subject to the provisions of the Lands Act, where the contract area includes an area of land over which any person other than the State has a lawful interest or the land is in use by the State, the contractor shall negotiate with such person or the State, as the case may be, for the grant of a right-of-way, easement or such other right of access as may be necessary for the conduct of petroleum operations thereon; Cap. 184

(4) (b) Where there is no agreement between such person and the contractor concerning the grant of a right-of-way, easement or such other right of access, the contractor may apply, through the Minister, to the President to have the said area compulsorily acquired under the provisions of the Lands Acquisition Act: Cap. 189

(4) (b) Provided that all compensations due for such rights compulsorily acquired by the President on behalf of the contractor shall be borne by the contractor.

(5) The acquisition of rights-of-way, easements or other rights of access by a contractor over land outside the boundaries of the contract area for the purpose of petroleum operations shall be made in accordance with the regulations made hereunder and any other applicable law.

(6) Any and all rights acquired or conferred pursuant to this section shall automatically expire when the contract to which they relate is terminated.

(7) Without prejudice to the preceding subsections of this section, the contractor shall, on demand being made by any person having a lawful interest in land upon or under which petroleum operations are being carried out, pay to such person fair and reasonable compensation for any disturbance of his surface rights, and for damage done to the surface of the land, or to any livestock, crops, trees, buildings or works as a result of petroleum operations. The amount of compensation payable shall be determined by agreement between the parties or, if the parties are unable to reach agreement or the agreed compensation is not paid, either party may refer the matter to the Minister who shall deal with the same as if the matter had arisen under the provisions of the Mines and Minerals Act.

Cap. 213

36. (1) Without prejudice to the provisions of sub-section (1) of section *twenty-four* the State shall have the right to grant to persons, other than a contractor, licences pursuant to the Mines and Minerals Act for the prospecting and exploration for, and mining of, substances other than petroleum within the contract area. In such event, the contractor shall afford safe passage for the licensee to that portion of the contract area in which such licensee proposes to carry out its operations:

Other minerals
Cap. 213

Provided that the operations of such licensee shall in no way hinder petroleum operations.

(2) If any historical objects, fossils or minerals of economic interest or capable of development are discovered by a contractor during the course of petroleum operations, the contractor shall report such discovery and shall supply, in the case of a discovery of minerals, a sample thereof to the Minister.

PART VII

GOVERNMENT REVENUES

37. A contractor, his contractors and sub-contractors shall be liable for the payment of income tax in accordance with the Income Tax Act with respect to income deriving from petroleum operations.

Income tax
Cap. 323

38. (1) The income of individuals who are employed by contractors, their contractors and sub-contractors, or who hire their services out to such organisations, shall be subject to payment of income tax in accordance with the Income Tax Act.

Employee taxation
Cap. 323

(2) A contractor, his contractors and sub-contractors shall be obliged to withhold and pay to the State any income tax assessed on the taxable income of such individuals in accordance with and as required by the Income Tax Act. Cap. 323

(As amended by Act No. 1 of 1993)

39. (1) The Minister shall require a contractor to pay to the State a royalty or production payment in cash or in kind, at the option of the State, upon the gross value or volume, as the case maybe, of crude oil produced and saved in the contract area after deducting the amount of crude oil used and consumed in the conduct of petroleum operations. Royalty or production payment

(2) The Minister may require a contractor to pay to the State a royalty or production payment based on the gross value or volume, as the case may be, of natural gas produced, saved and sold from the contract area after deducting the amount of natural gas used and consumed in the conduct of petroleum operations.

(3) The amount of such royalties may be prescribed by the regulations or in individual contracts.

40. Every contract shall require the contractor to make annual surface rental payments in respect of the contract area, and the amount of such surface rental shall be prescribed in the regulations. Surface rentals

41. Provision may be made in the regulations or in individual contracts for the payment by the contractor of fees, charges or other levies to the State in connection with the carrying out of petroleum operations pursuant to this Act. Other fees, charges and levies

42. (1) A contractor shall be granted exemptions from customs duties, levies or imposts as may be prescribed by any other law, on the exportation of petroleum which such contractor is entitled to export pursuant to his contract. Exemptions

(2) A contractor, his contractors and sub-contractors may be granted, upon approval by the Minister responsible for the administration thereof, relief from the following-

- (a) any tax or customs duties payable on the importation and subsequent exportation of machinery, equipment, materials and other items required for petroleum operations; and
- (b) any tax or customs duties payable on the importation and subsequent exportation of reasonable quantities of household goods and personal effects by non-Zambian employees of such contractor, his contractors and sub-contractors.

(As amended by Act No. 15 of 1996)

PART VIII

GENERAL PROVISIONS

- 43.** The provisions of section *eleven* shall apply *mutatis mutandis* to any public officer. Immunity of public officers
- 44.** (1) No person shall, without the consent in writing given by or on behalf of the Minister, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act. Prohibition of publication or disclosure of information to unauthorised persons
- (2) No person having information which to his knowledge has been published or disclosed in contravention of sub-section (1) shall publish or communicate any such information to any other person.
- 45.** Contracts may provide for arbitration of disputes arising thereunder between the State and the contractor in accordance with rules issued and administered by recognised international bodies. Disputes between State and contractor
- 46.** If any dispute, controversy or difference arises between two or more contractors or between a contractor and any person holding mining rights pursuant to the Mines and Minerals Act or between a contractor and any other person, the parties to such dispute, controversy or difference may jointly or individually apply to the Minister to investigate and resolve the same pursuant to and in accordance with the provisions of of the Mines and Minerals Act. Disputes between contractor and others. Cap. 213 Cap. 213
- 47.** (1) Where any contract is entered into and it is subsequently found that such contract was entered into as a result of any false or fraudulent representation or in consequence of any incorrect information, the Minister may give written notice to the contractor requiring him to show cause within a specified time why such contract should not be revoked. Revocation
- (2) Where any contractor is in breach of any provision of this Act, the Minister may give written notice to the contractor requiring him to show cause within a specified time why his contract should not be revoked.
- (3) If the contractor fails to comply with a notice given pursuant to subsection (1) or (2) within the time specified or if the cause shown be deemed inadequate, such contract may thereupon be revoked by the Minister, with the approval of the Committee.

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(4) Notice of such revocation shall be published in the *Gazette* and shall be entered upon the register. A copy of such notice shall be sent to the contractor at his registered address in the Republic.

48. (1) The revocation of a contract pursuant to section *forty-seven* shall entail the immediate cessation of all rights and privileges conferred on the contractor by virtue of such contract, the devolution to the State of the contract area and the automatic forfeiture of any guarantees submitted by the contractor to secure the fulfilment of the obligations undertaken. Effect of revocation

(2) Revocation under section *forty-seven* shall not in any way affect the liability of any person concerned arising out of such breach before such revocation, and shall not be a bar to any legal proceedings relating thereto.

49. Any person who contravenes any of the provisions of this Act, and such contravention is not an offence under any other written law, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding twenty five thousand penalty units or to a term of imprisonment not exceeding three years, or to both. Penalty

(As amended by Act No. 13 of 1994)

50. The Minister may make regulations for the better carrying out of the purposes of this Act. Regulations

51. Except as otherwise specifically provided in or under this Act, the provisions of the Mines and Minerals Act shall not apply to petroleum or petroleum operations. Non-application of the
Mines and Minerals
Act.
Cap. 213

SUSIDIARY LEGISLATION

THE PETROLEUM (EXPLORATION AND PRODUCTION) REGULATIONS

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SECTION 50-PETROLEUM (EXPLORATION AND PRODUCTION) REGULATIONS

Statutory Instrument
88 of 1985
165 of 1989
75 of 1990

PART I
PRELIMINARY

1. These Regulations may be cited as the Petroleum (Exploration and Production) Regulations. Title

2. In these Regulations unless the context otherwise requires- Interpretation

"development and production operations" means operations for or in connection with the production of petroleum;

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

"exploration operations" means operations for or in connection with exploration for petroleum;

"field" means an area, as determined pursuant to the terms of a contract, in which a commercial discovery of petroleum has been made;

"graticular section" means a graticular section referred to in regulation 3;

"well" means any opening in the ground made or being made by drilling or boring, or in any other manner, in connection with exploration operations or development and production operations, other than a seismic hole.

PART II

BLOCKS

3. (1) For the purpose of establishing the blocks referred to in section *twenty-three* of the Act, the surface area of the Republic shall be deemed to be divided into graticular sections by reference to meridians of longitude which are five minutes apart measured from the meridian of Greenwich and by reference to parallels of latitude which are five minutes apart measured from the Equator.

Graticulation and
constitution of blocks

(2) Each graticular section shall be bounded by part of two meridians of longitude which are five minutes apart and by part of two parallels of latitude which are five minutes apart.

(3) Where a portion of a graticular section includes land in the Republic and land outside the Republic, only that portion of the land in the Republic shall constitute a graticular section for purposes of these regulations.

(4) Each block awarded to a contractor shall be defined by reference to graticular sections.

4. For the purposes of section *thirty-five* of the Act, the areas declared closed to some or all petroleum operations shall be defined by reference to blocks comprised of graticular sections.

Closed areas

PART III

BIDS

5. (1) Every bidder when responding to an invitation for bid shall submit, *inter alia*, the following information: Information to be submitted by bidders

- (a) the name, address and nationality of the bidder;
- (b) in the case of a corporate bidder-
 - (i) the bidder's place of registration or incorporation, its principal place of business, its board of directors and senior management, the domicile and nationality of the members of the board of directors and its capital structure;
 - (ii) the form of organisation of the bidder, including information concerning the bidder's relationship with its parent company, if any, and other affiliated companies; and
 - (iii) the financial structure of the bidder and its parent company, if any, including annual reports, audited balance sheets and profit and loss statements for the past three years, and any reports which the bidder or its parent company may have filled with government agencies responsible for securities regulation during that period;
- (c) how exploration and development activities would be financed if the bid is successful and how performance would be guaranteed; and
- (d) the bidder's previous experience in petroleum exploration, development, production, refining and marketing.

(2) Where a bid is submitted by a group of two or more persons, the information referred to in sub-regulation (1) shall be submitted for each person in the group.

(3) Where, following the submission of the information referred to in sub-regulation (1), but prior to the selection of the successful bidder, there has been any change in the information so submitted, the bidder shall forthwith inform the Minister, specifying all particulars of the change.

6. (1) Each bid that is submitted in response to an invitation for bids shall include, *inter alia*, the following: Bid proposals

- (a) a description of the block or blocks for which the bid is submitted; and if the bid is made in respect of more than one block, the priority assigned to each block;

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- (b) a detailed description of the exploration programme proposed for the block or blocks for which the bid is submitted;
- (c) the minimum work and expenditure obligations to be undertaken during the exploration period;
- (d) proposals with respect to the training of Zambian personnel and expenditures to be incurred therefor;
- (e) proposals with respect to the sharing of net revenues or production between the bidder and the Government as indicated in the invitation for bids; and
- (f) such other matters as may be required by the invitation for bids or which the bidder wishes the Minister to consider.

(2) Additional information on all matters referred to in the preceding sub-regulation shall be promptly supplied by the bidder, if so requested by the Minister at any time after the bid has been submitted.

7. The following shall be the criteria for the evaluation of bids and selection of bidders for negotiations: Criteria for selection of bidders

- (a) the technical competence and experience of the bidder with respect to petroleum operations;
- (b) the financial resources available to the bidder to fulfil the petroleum exploration, development and production obligations under a contract;
- (c) the extent to which the bidder will provide advanced technology and skills to the Zambian petroleum industry; and
- (d) the specific contents of the bid received.

8. No rights of any kind shall be created in favour of any bidder by virtue of the submission of a bid proposal; the Minister reserves the right to accept or reject any or all of the bids without assigning any reason therefor. Rejection of bids

PART IV

PETROLEUM OPERATIONS

9. (1) The exploration period shall be comprised of- Exploration period

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- (a) an initial period not exceeding four years in duration;
and
- (b) upon extension in the prescribed manner, two further periods not exceeding three years each in duration.

(2) Notwithstanding the provisions of sub-regulation (1), the exploration period may, under exceptional circumstances, be extended for a period in excess of any period specified in such sub-regulation where the terms and conditions of a contract so provide or the prior approval of the Committee has been obtained.

10. (1) A contractor may not later than ninety days prior to the expiration of the then current period, apply to the Minister for an extension to the initial period or to the first or subsequent extension periods, referred to in regulation 9.

Extensions to
exploration period

(2) An application for an extension shall be made in writing to the Minister and shall be accompanied by-

- (a) particulars of the work carried out and the amount expended in the contract area during the initial period, or, where the application is for a second or subsequent extension to the initial period, during the preceding period of extension, up to and including the date of application;
- (b) proposals concerning the work to be carried out and the amount to be expended during the period of extension for which application is made;
- (c) such other matters as may be required under the contract or which the contractor may wish the Minister to consider.

(3) No extension shall be granted to a contractor unless-

- (a) the contractor has fulfilled his obligations under the contract for the then current period; and
- (b) the proposals accompanying the application pursuant to sub-regulation (2) (b) in respect of work and expenditure for the period of extension are consistent with his commitments therefor under the contract.

11. (1) In the event that a discovery of petroleum is made in a contract area, which the contractor considers to be commercial, the contractor shall, prior to the commencement of development and production operations, submit to the Minister the following:

Development and
production operations

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- (a) a description and map of the area containing such discovery which the contractor proposes to delineate as a field defined by reference to graticular sections;
- (b) a detailed report accompanied by supporting data and all analyses and interpretations thereof, which demonstrates that the area described in paragraph (a) contains, alone or in conjunction with other areas, as the case may be, a commercial discovery;
- (c) full information as to the contractor's current financial status, technical competence and experience;
- (d) detailed proposals for the construction, establishment and operation of all facilities and services for and incidental to the development, extraction, production, storage, transportation, sale and other disposal of petroleum; and a proposed timetable for the commencement of petroleum production;
- (e) a detailed forecast of capital investment requirements, operating costs and sales revenues and the anticipated type and source of financing; and
- (f) such other matters as may be required under the contract or as the Minister may reasonably require.

(2) No development and production operations may be commenced by a contractor unless-

- (a) the proposals of the contractor referred to in sub-regulation (1) ensure the most efficient, beneficial and timely use of the petroleum resources concerned consistent with accepted practices in the international petroleum industry;
- (b) the contractor has adequate financial resources, technical and industrial competence and experience to carry out effective development and production operations; and
- (c) the contractor has fulfilled his obligations under the contract and is willing and able to comply with the terms and conditions of the contract thereafter.

12. (1) A contractor shall, at such times and in such manner as may be provided in the contract, relinquish such part or parts of the contract area as provided therein and shall notify the Minister in writing not less than ninety days prior to the effective date of any such relinquishment of-

Mandatory and
voluntary
relinquishment

- (a) the description of the part or parts of the contract area to be relinquished; and

- (b) the description of the contract area remaining.

(2) A contractor may, at such times and in such manner as may be provided in the contract, relinquish all or any part of the contract area by giving to the Minister not less than ninety days' notice in writing of his intention to so relinquish and such notice shall, in the case of a relinquishment of part or parts of the contract area, include-

- (a) a description of the part or parts to be relinquished; and
- (b) a description of the contract area remaining.

(3) The description of any area relinquished, or of the contract area remaining following such relinquishment, as referred to in sub-regulations (1) and (2), shall be made by reference to graticular sections.

(4) Any notice of relinquishment given pursuant to sub-regulations (1) or (2) shall be accompanied by-

- (a) full particulars of the petroleum operations carried out in the area to be relinquished;
- (b) an undertaking by the contractor that, prior to the effective date of such relinquishment, he shall carry out all clean-up operations and render the area safe and in a condition which is in accordance with accepted practices in the international petroleum industry; and
- (c) such other information as the Minister may reasonably require.

(5) Where the entire contract area is relinquished pursuant to this regulation, the contract relating thereto shall terminate.

(6) The relinquishment of all or any part of the contract area made pursuant to sub-regulation (1) or (2) shall be without prejudice to any liabilities or obligations incurred by the contractor in relation to the area so relinquished prior to the effective date of relinquishment.

13. (1) An application for approval to assign, encumber or transfer any contract, or any rights or obligations arising out of a contract, shall be made in writing to the Minister; and every such application shall include-

Transfers and assignments

- (a) the name and nationality of the proposed assignee or transferee, and, in the case of a corporate assignee or transferee, the place of its incorporation and principal place of business;

- (b) evidence of the proposed assignee's or transferee's technical and financial ability to assume and undertake the work obligations and other commitments set forth in the contract concerned;
- (c) an unconditional written undertaking by the assignee or transferee to assume all the obligations assigned and transferred by the transferrer or assignor under the contract; and
- (d) such other particulars as the Minister may reasonably require.

(2) In addition to any information required under sub-regulation (1), the contractor may be requested, before the application is disposed of, to submit further relevant information within a specified reasonable time; and where such further information is not supplied within the time specified, the application shall be deemed to have been withdrawn.

(3) The assignment, encumbrance or transfer of any contract or interest therein shall not affect any liability of the transferor or assignor incurred before the date upon which such assignment, encumbrance or transfer takes effect; nor, unless a contract otherwise provided, shall it relieve the transferor or assignor from liability for the performance by the transferee or assignee of the obligations undertaken by the transferor or assignor at the time the contract was entered into.

PART V

WORK PRACTICES

14. (1) Every contractor shall, in carrying out petroleum operations, always act in accordance with generally accepted practices in the international petroleum industry.

Work practices and directions

(2) Where the Minister considers that a contractor has not acted in accordance with such practices and in particular, with the conservation and work practices as provided for in section *thirty-two* of the Act, he may notify such contractor in writing accordingly and require him to show cause, within such reasonable time as the Minister shall specify, why he has failed to act in accordance with such practices.

(3) Where, within the time specified in any notice issued under sub-regulation (2), the contractor fails to satisfy the Minister that he has acted in accordance with such practices or that his failure to so act is justified, the Minister may direct the contractor to take such steps as may be necessary to ensure compliance therewith.

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(4) Any contractor who fails to comply with a direction given under sub-regulation (3) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty-five thousand penalty units.

(5) Where proceedings are instituted for an offence under sub-regulation (4), it shall be a sufficient defence if the contractor satisfies the court that he forthwith took all reasonable steps in accordance with accepted practices in the international petroleum industry to comply with such direction.

(6) Where a contractor fails to comply with a direction given to him under sub-regulation (3), the Minister may cause to be done all or any of the things required by such direction.

(7) Any cost or expenses reasonably incurred by the Minister under sub-regulation (6) shall be a debt due to the State by the contractor to whom the direction was given and shall be paid into the general revenues of the Republic.

(8) Nothing in this regulation or in any direction given thereunder shall be construed as requiring any contractor to do anything which is not, or to refrain from doing anything which is, in accordance with generally accepted practices in the international petroleum industry.

(As amended by Act No. 13 of 1994)

15. (1) Every contractor shall ensure that his well design and conduct of drilling operations, including his casing, cementing, well spaced plugging operations, are in accordance with generally accepted practices in the international petroleum industry.

Drilling practices and abandonment

(2) Every well shall be identified by name, number and geographic co-ordinates which shall be shown on maps, plans and similar records which a contractor is required to keep; and the Minister shall at once be notified in writing of any change of the name or identification number of a well.

(3) Before commencing any work on or drilling any well, or recommencing work on any well on which work has been discontinued for more than six months, a contractor shall give the Minister seven days' notice in writing and shall include in such notice-

- (a) the official name and number of the well;
- (b) a description of its precise location by reference to geographical co-ordinates;
- (c) its elevation above sea level;

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- (d) a detailed report on the drilling technique to be employed, an estimate of the time to be taken and depth objective, the material to be used, and the safety measures to be employed, in the drilling of the well; and
- (e) a summary of the geological and geophysical data, and any interpretations thereof, upon which the contractor made his decision to drill the well in the particular location.

(4) Where any work or drilling relating to any well is discontinued for a period exceeding thirty days, a contractor shall notify the Minister in writing to that effect.

(5) Before recommencing any work on or drilling with respect to any well on which work has been discontinued for more than thirty days but for less than six months, a contractor shall give forty-eight hours' notice in writing of his intention so to do.

(6) Except with the approval of the Minister, no contractor shall drill a well from any surface area within the contract area which is less than one thousand metres from a boundary of such contract area.

(7) No well shall be drilled from within a contract area through any vertical boundary of such contract area.

(8) A directional well drilled under a contract area from a surface location on nearby land not within such contract area shall be deemed to have the same effect for all purposes of the Act as a well drilled from a surface location within such contract area and, in such circumstances, the production of petroleum from the contract area through a directional well surfaced on nearby land, or drilling or reworking of any such directional well, shall be considered production, drilling or reworking operations, as the case may be, in the contract area.

(9) Nothing contained in sub-regulation (8) shall be construed to grant to a contractor any leasehold interest, licence, easement, right-of-way or other right which such contractor is required to acquire under the Act or any other written law.

(10) Before abandoning any well, the contractor shall give, in the case of a producing well, not less than thirty days, and, in the case of any other well, not less than twenty-four hours' written notice to the Minister of his intention to abandon and such notice shall be accompanied by a satisfactory programme for the abandonment and plugging of the well identified in the notice.

(11) Subject to the terms and conditions of a contract, a contractor may, upon the expiration of the relevant period of notice or upon receipt by the contractor of the written approval of the Minister of the programme submitted pursuant to the preceding sub-regulation, whichever is earlier, commence the abandonment operations in relation to such well:

Provided that in all cases-

- (i) the contractor shall undertake to securely plug such well to prevent pollution and possible damage to the deposit, and shall, except as the Minister may otherwise direct or his contract may otherwise provide, remove all equipment, materials and facilities relating thereto;
- (ii) cemented strings or other forms of casing shall not be withdrawn without the prior written approval of the Minister; and
- (iii) the contractor shall permit a representative of the Government to observe such operations.

16. (1) Each contractor shall, prior to commencing the construction, alteration or operation of a pipeline, pumping station, storage facility or any other related facilities for the conveyance or storage of petroleum from a contract area, apply in writing to the Minister for authorisation.

Construction of pipelines and related facilities

(2) The written application submitted pursuant to sub-regulation (1) shall be accompanied by particulars of-

- (a) the proposed design and construction of the pipeline, pumping station, storage facility or other related facilities;
- (b) the proposed work programme and budget and the technical and financial resources available to the contractor for the construction, alteration or operation of the pipeline, pumping station, storage facility or any other related facilities; and
- (c) the proposed route to be followed by the pipeline and the location of any pumping station, storage facility or other related facilities to be constructed, altered or operated.

(3) Subject to any conditions which may have been agreed in a contract and the provisions of sub-regulation (4), and upon receipt of the Minister's written approval, a contractor may commence the construction, alteration or operation of the pipeline, pumping station, storage facility or related facilities.

(4) Nothing contained in this regulation is intended, or shall be construed, to grant any leasehold interest, licence, easement, right-of-way or other right which the contractor is required to acquire lawfully under the Act or any other written law.

17. (1) Each contractor shall supply, operate and maintain equipment for measuring the volume and quality of any petroleum produced and saved pursuant to his contract, including gravity, density, temperature and pressure measuring devices and any other devices that may be required; and all such equipment and devices shall, prior to their installation or usage be approved by the Minister and following such installation or usage shall not be replaced or altered without the prior approval of the Minister. Measurement

(2) Measurement equipment and devices shall be available for inspection and testing at all reasonable times by any person authorised by the Minister:

Provided that any such inspection or testing shall not interfere with the normal operation of the facilities involved.

(3) Each contractor shall measure the volume and quality of the petroleum produced and saved pursuant to his contract, consistent with generally accepted practices in the international petroleum industry, with the frequency and according to procedures which shall be approved by the Minister.

(4) Each contractor shall give to the Minister timely notice of his intention to conduct measuring operations and the Minister shall have the right to be present at and supervise, either directly or through authorised persons, such operations.

(5) If it is determined, following an inspection or test carried out by an authorised person, that the equipment, devices or procedures used for measurement are inaccurate and exceed the permissible tolerances, which shall be established by agreement prior to the installation and usage of such equipment, devices or procedures, and such determination is verified by an independent surveyor acceptable to the Minister and the contractor, such inaccuracy shall be deemed to have existed for one-half of the period since the last such inspection or test, unless it is proved that the inaccuracy has been in existence for a longer or shorter period; and appropriate adjustments covering such period shall be made within thirty days from the date of such determination.

PART VI

RETURNS, RECORDS, PLANS, ETC.

18. (1) Every contractor shall, prior to the commencement of petroleum operations, or recommencement of petroleum operations which have been discontinued for a period exceeding ninety days, give the Minister not less than forty-eight hours' notice in writing of his intention to commence or recommence such operations. Notice of commencement

(2) Any notice given pursuant to sub-regulation (1) shall include the name and address of the local resident manager under whose supervision such operations are to be carried out.

19. (1) Every contractor shall submit to the Minister, on or before the 30th day of January, April, July and October, a report in respect of the preceding quarter containing or showing- Quarterly reports

- (a) a description of the results of all petroleum operations carried out by the contractor;
- (b) in the case of exploration operations, a summary of all geological and geophysical work carried out by the contractor, including a summary of all drilling activities;
- (c) a list of maps, reports and other geological and geophysical data prepared by, or on behalf of, the contractor in respect of the period concerned;
- (d) in the case of development and production operations, the gross volume and quality of all petroleum produced, saved, sold or otherwise disposed of from his contract area, the consideration accrued or received the quantity disposed of and identity of the person; to whom such quantity was disposed, and the balance of stocks on hand at the end of the period concerned;
- (e) the average number of persons employed in the Republic, in terms of Zambian and expatriate personnel, in connection with the petroleum operations carried out;
- (f) the amounts disbursed in the Republic in respect of wages, overtime, allowances or other emoluments or benefits;
- (g) the amounts disbursed in the Republic and externally, for the purchase of fuels, stores, foodstuffs or other materials, equipment or services;
- (h) the total operating and capital expenditures incurred, both in the Republic and externally, in respect of the petroleum operations carried out, determined in accordance with his contract;
- (i) any other relevant information which may be required by his contract or which the Minister may reasonably require.

(2) With respect to paragraphs (f), (g) and (h) of sub-regulation (1), when the precise amount is not ascertainable by the date upon which the report is due, figures which are the best possible approximation shall be given.

20. Every contractor shall submit to the Minister, on or before the 30th day of September of each year, a complete programme of work to be carried out during the following year, together with a detailed budget of the expenditures to be incurred. Annual work programme

21. On or before the 31st day of March of each year every contractor shall submit to the Minister an annual report in respect of the preceding year containing- Annual Report

- (a) the information required by sub-regulation (1) (a) to (j) of regulation 19 for the entire year;
- (b) estimates (if available) of economically recoverable reserves of crude oil and natural gas at the end of the year concerned;
- (c) a surface plan of the contract area at a scale not smaller than 1:250 000 showing-
 - (i) the boundaries of the contract area;
 - (ii) the total surface area of the contract area in square kilometres;
 - (iii) the location of any wells drilled by the contractor during that year; and
 - (iv) the location or routing of any buildings, roads, powerlines, pipelines and similar permanent installations.

22. (1) During the conduct of drilling operations, every contractor shall be required to submit daily drilling reports to the Minister describing the progress and results of such operations. Periodic reports

(2) Every contractor shall within one hundred and eight days of the completion of any survey, test or drilling operations, or, in the case of data that cannot reasonably be obtained or compiled in that period, as soon as possible thereafter, submit to the Minister the following data including any interpretations thereof:

- (a) geological data including-
 - (i) surface or photogeological and subsurface maps of the area explored;
 - (ii) stratigraphic data, including measured stratigraphic surface sections, lithological groups, information relating to the porosity and the permeability of petroleum bearing zones;
 - (iii) lithologic and/or paleontologic samples; and
 - (iv) summary reports of the geological data including references to the survey and processing techniques utilised;

- (b) geophysical data including-
 - (i) seismic data, including-
 - A. short-point and elevation maps;
 - B. interpretive contour maps on critical or outstanding mapping horizons;
 - C. seismic record sections;
 - D. location and elevation survey notes; and
 - E. summary reports of the seismic data including references to the survey and processing techniques utilised;
 - (ii) gravimetric data, including-
 - A. gravity station location and elevation maps;
 - B. observed gravity value contour maps and any derivative maps;
 - C. gravimetric survey notes; and
 - D. summary reports of the gravimetric data including references to the survey and processing techniques utilised;
 - (iii) magnetic data, including-
 - A. station and/or flight line base maps;
 - B. total intensity value maps and any derivative maps; and
 - C. summary reports of the magnetic data including references to the survey and processing techniques utilised;

- (c) well completion reports including-
 - (i) engineering data;
 - (ii) geological data;
 - (iii) drill stem/production test results;
 - (iv) all wireline logs (at recommended scales of 1:1000, 1:500 and 1:200);
 - (v) samples and sample descriptions; and
 - (vi) core samples, core descriptions and laboratory analyses of the same; and

- (d) such other data as the Minister may, by written notice to the contractor, reasonably require him to so submit.

23. (1) Every contractor shall in respect of his contract area keep at his registered office in the Republic accurate records containing full particulars of the following matters:

Records, accounts, etc., to be maintained

- (a) the drilling, operation, deepening, plugging or abandonment of wells;
- (b) the strata and subsoil through which wells are drilled;
- (c) the casing inserted in wells and any alteration to such casing;

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- (d) any petroleum, water and other economic minerals encountered;
- (e) the areas in which any geological or geophysical work has been carried out;
- (f) accurate geological maps and plans, geophysical records, representative geological samples and test results, and all interpretations thereof; and
- (g) such other matters as may be provided in his contract or as the Minister may reasonably require by notice in writing to the contractor.

(2) Every contractor shall keep at his registered office in the Republic accurate accounts containing full particulars of the following:

- (a) the gross quantity of any crude oil and natural gas produced and saved from the contract area;
- (b) the grades and gravity of any crude oil produced and the composition of any natural gas produced;
- (c) any quantities of crude oil, natural gas and sulphur, in any form, or any other minerals, gases, liquids or solids disposed of by way of sale or otherwise, the consideration received, the quantity disposed of and the name of the person to whom any such quantity was disposed;
- (d) the quantity of crude oil, natural gas and other liquids or gases injected into a formation;
- (e) the quantity of crude oil and natural gas consumed for drilling and other development and production operations (other than quantities reported under paragraph (d)) and consumed in pumping to field storage, refineries in the Republic or the point of export;
- (f) the quantity of crude oil refined by or for the contractor in the Republic;
- (g) the quantity of natural gas treated in the Republic by him or on his behalf for the removal of liquids and liquified petroleum gases and the quantity of butane, propane and any other liquids, gases or any solids obtained;
- (h) the quantity of natural gas flared; and
- (j) such further information as may be required by his contract or as the Minister may reasonably require.

24. Prior to the termination of a contract, or upon the relinquishment of any part of a contract area, the contractor shall forthwith submit to the Minister, in relation to the contact area or part thereof, copies of-

Final reports

- (a) all records which the contractor maintained pursuant to this Part;
- (b) all plans or maps of such area which were prepared by or on behalf of the contractor;
- (c) all tapes, diagrams, profiles and charts which were so prepared; and
- (d) such other documents or materials as the Minister may, by notice given to the contractor, reasonably require the contractor to so submit.

25. The Minister may, on application made to him in writing by a contractor, by notice in writing, dispense with or modify any of the requirements of regulations 19 to 24 to the extent and on such conditions as may be stated in the notice.

Modification of duties

26. (1) All returns, reports, plans, data and other information submitted under these Regulations shall be treated as confidential by the Government and shall not, unless otherwise provided in a contract, be disclosed to third persons prior to the relinquishment of the area to which they relate, or prior to the end of the exploration period if such area is not sooner relinquished:

Confidentiality

Provided that-

- (a) any topographical and surface geological maps and interpretations may be utilised at any time by the Government departments concerned for incorporation into official maps;
- (b) annual statistical information may be published at any time by the Government in a form which does not disclose the operations of any particular contractor; and
- (c) the Government may make such returns, reports, plans, data and other information available at any time to professional consultants, legal counsel, accountants, underwriters, lenders and such Government entities as may need to be made aware thereof.

(2) No contractor shall, unless otherwise provided in a contract, disclose any returns, reports, plans, data, records and other information compiled, received, maintained or submitted pursuant to these Regulations or the terms and conditions of a contract without the prior written approval of the Minister:

Provided that-

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- (a) a contractor may make such returns, reports, plans, records and other information available, without the approval of the Minister, to professional consultants, legal counsel, accountants, underwriters, lenders, companies in which a contractor maintains a controlling interest and such Government entities as may need to be made aware thereof or have the right to require such disclosure; and
- (b) any disclosure made by a contractor to third parties pursuant to this sub-regulation shall only be made on terms which ensure that the information so disclosed is treated as confidential by the recipient.

27. (1) Any authorised person may at all times-

Power of entry and inspection

- (a) enter any area, building, structure, vehicle, vessel or aircraft or examine or have examined by a qualified person any machinery or equipment, which has been, is being or is to be, used in connection with petroleum operations;
- (b) take or remove samples of petroleum, water or other substances for the purpose of testing or analysis;
- (c) inspect, make copies of or take extracts from, any document, book or data relating to petroleum operations;
and
- (d) make such examinations and enquiries and carry out such functions as may be necessary to ensure that the provisions of the Act or the terms and conditions of a contract are being complied with.

(2) Where there is a person present who is or appears to be in charge of the area, building, structure, vehicle, vessel, aircraft, machinery, equipment or matter or thing in respect of which any of the powers under sub-regulation (1) are to be exercised, any authorised person shall, before exercising any such power, identify himself to that person and shall, if so requested by that person, produce evidence of his authority.

(3) In exercising his power under sub-regulation (1), an authorised person shall not unduly interfere with any petroleum operations being carried out.

(4) Any person who is an occupier or person in charge of an area, building or structure, or the person in charge of any vehicle, vessel, aircraft, machinery, equipment or matter or thing referred to in sub-regulation (1), shall provide the authorised person with all reasonable facilities and assistance for the effective exercise of his functions under these Regulations.

PART VII

FINANCIAL PROVISIONS

28. (1) The fees and surface rentals set out in Part I of the Schedule shall be payable in respect of the matters specified therein. Fees and rentals

(2) All fees and surface rentals payable under these Regulations shall be paid into the general revenues of the Republic in advance and without demand.

29. (1) A royalty or production payment shall be payable at the rates prescribed in Part II of the Schedule in respect of the annual gross production of- Royalty or production payment

(a) crude oil produced and saved in each year from a contract area; and

(b) natural gas produced, saved and sold in each year from a contract area.

(2) The royalty or production payment due shall be payable quarterly within thirty days of the end of each quarter.

SCHEDULE

PART I

FEES AND SURFACE RENTALS

	<i>Column A</i> Fee units	<i>Column B</i> US \$
1. Fees for inspection of the Register:		
-for general search and examination of the Register	12	5.00
-for the supply of a copy of and entry on the Register	24	10.00
2. Surface rentals:		
-annual surface rentals for a contract area during the exploration period (per square kilometre or part thereof)	12	5.00
-annual surface rentals for surface area of a field (per square kilometre or part thereof)	2,400	1,000.00

NOTE:

In the case of foreign nationals or foreign companies (or persons or entities under effective foreign control) the fees and surface rentals set out in Column B shall be paid in United States dollars or any other currency acceptable to the Minister.

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PART II

ROYALTY OR PRODUCTION PAYMENT

1. Crude Oil:
at a rate of not less than ten percent (10%) of the wellhead value.
2. Natural Gas:
at a rate of not less than five percent (5%) of the wellhead value.

NOTE:

"Wellhead value" for the purpose of this Part shall mean the net realised price received by a contractor at the point of export or other agreed delivery point from the sale or other disposition of crude oil or natural gas, as the case may be, less such costs as the Minister may reasonably allow in respect of handling and transportation from the wellhead to such point of export or other agreed point of delivery.

(As amended by S.I. No. 165 of 1989, No. 75 of 1990, and Act No. 13 of 1994)