

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 198.

*Petroleum.*

GENERAL ANNOTATION.

ADMINISTRATION.

The administration of this Chapter was vested in the Minister for Minerals and Energy at the date of its preparation for inclusion.

The present administration may be ascertained by reference to the most recent Determination of Titles and Responsibilities of Ministers made under Section 148(1) of the Constitution.

TABLE OF CONTENTS.

	<i>Page.</i>
<i>Petroleum Act.</i> .....	3
<i>Petroleum (Directions) Regulation.</i> .....	73
Subsidiary Legislation .....	77
Appendixes—	
1. Source of Act.	
2. Source of Regulation.	



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER No. 198.

*Petroleum Act.*

ARRANGEMENT OF SECTIONS.

PART I.—PRELIMINARY.

1. Compliance with constitutional requirements, etc.

2. Interpretation—

- "annual fee"
- "approved"
- "arbitration"
- "authorized officer"
- "block"
- "the Board"
- "the Chief Inspector"
- "the Director"
- "document"
- "drilling"
- "former Acts"
- "good oilfield practice"
- "graticular section"
- "improvements"
- "inspector"
- "land"
- "licence"
- "licence area"
- "licensee"
- "location"
- "low water line"
- "natural gas"
- "the offshore area"
- "petroleum"
- "petroleum development licence"
- "petroleum pool"
- "petroleum prospecting licence"
- "pipeline"
- "pipeline licence"
- "pipeline licensee"
- "private land"
- "pumping station"
- "Register"
- "registered holder"
- "royalty period"
- "secondary line"
- "tank station"
- "this Act"
- "valve station"

"vessel"  
"Warden"  
"Warden's Court"  
"water line"  
"well".

3. Declaration of low water line.
4. Application.
5. Petroleum the property of the State.
6. The Director may carry on operations.
7. Exploration for and recovery of petroleum.

PART II.—APPLICATION OF LAWS AND ADMINISTRATION.

8. Laws of Papua New Guinea to apply.
9. Jurisdiction of courts.
10. Appointment of Director.
11. Delegation.
12. Petroleum Advisory Board.
13. Meetings of the Board.
14. Powers and duties of Board.

PART III.—PETROLEUM EXPLORATION AND DEVELOPMENT.

*Division 1.—Preliminary.*

15. Graticulation of Earth's surface and constitution of blocks.
- 15A. Prospecting licences under Torres Strait Treaty.
16. Issue of licences.
17. Reservation of blocks.

*Division 2.—Petroleum Prospecting Licences.*

18. Applications for petroleum prospecting licences.
19. Form of application, etc.
20. Grant or refusal of petroleum prospecting licence.
21. Rights conferred by petroleum prospecting licence.
22. Term of petroleum prospecting licence.
23. Application for extension of petroleum prospecting licence.
24. Application for extension to be in respect of reduced area.
25. Grant or refusal of extension of petroleum prospecting licence.
26. Extension of petroleum prospecting licences in respect of locations.
27. Conditions of grant of petroleum prospecting licence.

*Division 3.—Discovery of Petroleum in Licence Area.*

28. Discovery of petroleum to be notified.
29. Directions by Minister on discovery of petroleum.
30. Declaration of location.
31. Investigations, etc., of locations.

*Division 4.—Petroleum Development Licences.*

32. Application by petroleum prospecting licensee for petroleum development licence.
33. Application for petroleum development licence.
34. Notification of grant of petroleum development licence.
35. Grant of petroleum development licence.

36. Variation of petroleum development licence area.
37. Revocation of declaration of location.
38. Rights conferred by petroleum development licence.
39. Term of petroleum development licence.
40. Application for extension of petroleum development licence.
41. Grant or refusal of extension of petroleum development licence.
42. Conditions of petroleum development licence.
43. Unit development.
44. Directions as to recovery of petroleum.

*Division 5.—Pipeline Licences.*

45. Construction, etc., of pipelines.
46. Acts done in an emergency.
47. Removal of pipeline.
48. Application for pipeline licence.
49. Grant or refusal of pipeline licence.
50. Rights conferred by pipeline licence.
51. Term of pipeline licence.
52. Application for extension of pipeline licence.
53. Grant or refusal of extension of pipeline licence.
54. Conditions of pipeline licence.
55. Variation of pipeline licence on application by licensee.
56. Variation of pipeline licence by Minister.
57. Common carrier.
58. Ceasing to operate pipeline.

*Division 6.—Registration of Instruments.*

59. Interpretation of Division 6—  
    "licence"  
    "licensee".
60. Register to be kept.
61. Approval and registration of transfers.
62. Entries in Register of devolution of title.
63. Interests not to be created, etc., except by instrument.
64. Approval of instruments creating, etc., interests.
65. True consideration to be shown.
66. Minister not concerned with certain matters.
67. Power of Minister to require information as to proposed dealings.
68. Production and inspection of documents.
69. Inspection of Register and documents.
70. Evidentiary provisions.
71. Register may be rectified.
72. Minister or Director not liable for certain actions.
73. Offences.

*Division 7.—Rights in Respect of Land and Property.*

74. Rights of licensees in respect of land and property.
75. Rights of pipeline licensees in respect of land and property.
76. Rights of landowners.
77. Interference with other rights.
78. Responsibility to repair damage.
79. Additional rights of entry.
80. Land occupied to be surveyed.
81. Compensation.
82. Warden's Court.
83. Acquisition of land.
84. Determination of customary land.
85. Trespass on land held under a licence.

*Division 8.—General.*

86. Date of effect of licences, etc.
87. Work practices for licensee.
88. Work practices for pipeline licensee.
89. Work practices for holders of instruments of consent.
90. Penalty for breach of Section 87, 88 or 89.
91. Maintenance, etc., of property.
92. Drilling near boundaries.
93. Directions.
94. Compliance with directions.
95. Exemptions, variations, etc.
96. Prevention from carrying on prospecting operations.
97. Surrender of licences, etc.
98. Cancellation of licences, etc.
99. Removal of property, etc., by licensee, etc.
100. Removal and sale of property.
101. Penalty for late payments.
102. Securities.
103. Further information to be furnished, etc.
104. Failing to furnish information, etc.
105. Drilling for and discovery of water.
106. Survey of wells, etc.
107. Records, etc., to be kept.
108. Confidentiality, etc., of information.
109. Scientific investigations: Instruments of consent.
110. Inspectors.
111. Powers of inspectors.
112. General penalty.
113. Continuing offences.
114. Orders for forfeiture in respect of certain offences.
115. Service.

*Division 9.—Fees and Royalties.*

- 116. Fees, etc.
- 117. Determination of value of petroleum.
- 118. Royalty.
- 119. Ascertaining quantity of petroleum recovered.
- 120. Payment of royalty and penalty for late payment.
- 121. Registration fees.

**PART IV.—MISCELLANEOUS.**

- 122. Inspectors not to have any interests in licences, etc.
- 123. Points, etc., to be ascertained by reference to geodetic datum.
- 124. Regulations.
- 125. Repeal.

**PART V.—TRANSITIONAL PROVISIONS.**

- 126. Interpretation of Part V.—
  - "commencement date"
  - "offshore Act"
  - "onshore Act"
  - "permit".
- 127. Offshore licences to continue in force.
- 128. Permits to continue in force.
- 129. Holders of permits may apply.

**SCHEDULES.**

Schedule 1.—Repealed Acts.

Schedule 2.—Determination of Value of Petroleum under Section 117

**PART I.—PRELIMINARY.**

Sch.2.1.—Interpretation of Schedule 2—

- "adjusted price"
- "appropriate adjustment"
- "domestic value"
- "export value"
- "the guidelines"
- "the licensee"
- "relevant contract"
- "the relevant period".

Sch.2.2."Sale at arms' length".

Sch.2.3."Arms' length price".

Sch.2.4.Comparison of petroleum.

Sch.2.5.Comparison of prices.

**PART 2.—NORM VALUES.**

Sch.2.6.Determination of value by reference to relevant contracts.

Sch.2.7.Determination of value in other cases.

Ch. No. 198

*Petroleum*

PART 3.—GUIDELINES.

Sch.2.8.Regulations as to guidelines.

Sch.2.9.Marker prices.

PART 4.—ARBITRATION.

Sch.2.10.References to arbitration.

Sch.2.11.Matters referable to arbitration.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 198.

*Petroleum Act.*

Being an Act to enact comprehensive legislation governing the exploration for and production of petroleum in Papua New Guinea and in the offshore area and for related purposes.

PART 1.—PRELIMINARY.

1. Compliance with constitutional requirements.

(1) To the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the Constitution, namely—

- (a) Section 44 (*the freedom from arbitrary search and entry*); and
- (b) Section 49 (*the right to privacy*); and
- (c) Section 51 (*the right to freedom of information*),

this Act is made for that purpose, taking into account the National Goals and Directive Principles and the Basic Social Obligations, in particular the National Goals and Directive Principles entitled—

- (c) national sovereignty and self reliance; and
- (d) natural resources and environment,

for the purpose of giving effect to the public interest in public welfare.

(2) For the purposes of Section 29 of the Organic Law on Provincial Government, it is declared that this Act relates to a matter of national interest.

2. Interpretation.

(1) In this Act, unless the contrary intention appears—

“annual fee” means a fee prescribed by Section 116;

“approved” means approved by the Minister;

“arbitration” means arbitration under the *Arbitration Act* or, where the Minister and a licensee have agreed to substitute some other form of arbitration for that Act, that other form of arbitration;

“authorized officer” in relation to—

- (a) the doing of any act; or
- (b) the exercise of any power or function; or
- (c) the performance of any duty,

means the officer authorized in writing by the Minister for that purpose;

“block” means a block constituted as provided by Section 15;

“the Board” means the Petroleum Advisory Board established under Section 12;

“the Chief Inspector” means the Chief Inspector appointed under Section 110(1);

“the Director” means the Director appointed under Section 10;

“document” includes any map, book, record, or writing;

"drilling" means the perforation of the earth's surface whether the hole is vertical, inclined, or horizontal and includes—

(a) 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

(b) the fitting of wellheads, coring, and logging;

"former Acts" means the Acts repealed by Section 125;

"good oilfield practice" means all those things that are generally accepted as good and safe—

(a) in the carrying on of exploration for petroleum; or

(b) in operations for the recovery of petroleum,  
as the case may be;

"graticular section" means a section referred to in Section 15(1);

"improvements" means—

(a) any building or structure; and

(b) any yard, fence, wall or other erection, construction or appliance affixed to land—

(i) for the working or management of the land or of stock depastured on the land; or

(ii) for maintaining or increasing the natural capacity of the land to produce or to give shelter or enjoyment to humans or animals; and

(c) any planted crop or trees, whether planted for commercial or domestic purposes,

and includes—

(d) any well, bore, reservoir, spring, dam or other artificial water course or watering place; and

(e) any road, track, footpath, railway, tramway, culvert, bridge or crossing; and

(f) the site of any sports ground, recreation area, sing sing ground, village or community meeting place, burial place or sacred ground;

"inspector" means a person appointed under Section 110, and includes the Chief Inspector;

"land" includes the offshore area and the bed of any river, stream, estuary, lake or swamp;

"licence" means a petroleum prospecting licence issued under Section 20 or a petroleum development licence issued under Section 35, or both, as the context requires, and includes any extension of those licences;

"licence area" means the area constituted by the blocks that are the subject of a licence;

"licensee" means the registered holder of a licence;

"location" means the blocks in respect of which a declaration under Section 30 is in force;

"low water line" means—

- (a) the low water line on a coast of Papua New Guinea at mean low water springs; or
- (b) any line declared by the Minister to be a low water line under Section 3;

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

"the offshore area" means the area that comprises—

- (a) the seabed underlying the waters (if any) between the low water line and the baseline; and
- (b) the seabed underlying the territorial sea; and
- (c) the seabed adjacent to the coast of Papua New Guinea that underlies the offshore seas to a depth not exceeding 200 m or, beyond that limit, to a depth where the superjacent waters admit of the exploitation of the natural resources of that area;

"petroleum" means—

- (a) any naturally occurring hydrocarbons, whether in a gaseous, liquid, or solid state; or
- (b) any naturally occurring mixture of hydrocarbons, whether in a gaseous, liquid, or solid state; or
- (c) any naturally occurring mixture of one or more hydrocarbons, (whether in a gaseous, liquid, or solid state) and any other substance, and includes any petroleum as defined by Paragraph (a), (b) or (c) that has been returned to a natural reservoir, but does not include coal, shale, or any substance that may be extracted from coal, shale, or other rock;

"petroleum development licence" means a licence issued under Division III.4;

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

"petroleum prospecting licence" means a licence issued under Division III.2;

"pipeline" means a pipe or system of pipes for conveying petroleum but does not include a pipe or system of pipes—

- (a) for returning petroleum to a natural reservoir; or
- (b) for conveying petroleum for use for the purposes of petroleum exploration operations or for operations for the recovery of petroleum; or
- (c) for conveying petroleum that is to be flared or vented;

"pipeline licence" means a licence to construct and operate a pipeline issued under Division III.5;

"pipeline licensee" means the registered holder of a pipeline licence;

"private land" means land other than Government land as defined in Section 2 of the *Mining Act*;

"pumping station" means equipment for pumping petroleum or water and includes any structure associated with that equipment;

"Register" means a Register kept under Division III.6;

"registered holder", in relation to a licence, means the person whose name is for the time being shown in the Register as being the holder of the licence;

"royalty period", in relation to a licence means—

(a) the period commencing on the date on which the licence comes into effect to the end of that month; and

(b) each month afterwards;

"secondary line" means a pipe or system of pipes for any purpose referred to in Paragraphs (a), (b) and (c) of the definition of "pipeline";

"tank station" means a tank or system of tanks for holding or storing petroleum, and includes any structure associated with that tank or system of tanks;

"this Act" includes the regulations;

"valve station" means equipment for regulating the flow of petroleum, and includes any structure associated with that equipment;

"vessel" means a vessel used in navigation, other than air navigation, and includes a barge, lighter or other floating vessel;

"Warden" means a Warden within the meaning of the *Mining Act*;

"Warden's Court" means a Warden's Court within the meaning of the *Mining Act*;

"water line" means a pipe or system of pipes for conveying water to be used in connexion with prospecting for, or the recovery of, petroleum;

"well" means a hole in land or the subsoil of land, made by drilling, boring or any other means—

(a) in connexion with exploration for petroleum; or

(b) in operations for the recovery of petroleum, but does not include a seismic shot hole.

(2) In this Act, a reference—

(a) to the term of a licence or a pipeline licence is a reference to the period during which the licence or pipeline licence, as the case may be, remains in force and includes the period of any extension of such licence; and

(b) to the date of expiration of a licence or a pipeline licence is a reference to the day on which the licence or pipeline licence, as the case may be, ceases to have effect.

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

(4) In this Act, a reference to a licence or pipeline licence is a reference to the licence or pipeline licence, as the case may be, as varied for the time being under this Act.

### 3. Declaration of low water line.

In any case where he considers there is doubt as to the location of a low water line, the Minister may, by notice in the National Gazette, declare the location of the line by whatever method appears to him to be appropriate, and the line so declared shall be the low water line.

**4. Application.**

This Act applies—

- (a) to all natural persons, whether resident in the country or not; and
- (b) to all corporations, whether incorporated or carrying on business in the country or not.

**5. Petroleum the property of the State.**

(1) Subject to this Act, but notwithstanding anything contained in any other law or in any grant, instrument of title or other document, all petroleum and helium at or below the surface of any land is, and shall be deemed at all times to have been, the property of the State.

(2) Petroleum and helium shall not be removed from the land from which it has been obtained, or disposed of in any manner, except—

- (a) subject to Subsection (3), by a licensee, for the purpose of sampling or analysis; or
- (b) by a licensee in accordance with the terms of his licence or a written agreement with the State; or
- (c) as otherwise permitted by this Act.

(3) A licensee shall not take or send out of the country any samples of petroleum or helium without the written consent of the Director.

**6. The Director may carry on operations.**

(1) The Director may, on behalf of the State, carry on prospecting for, and the recovery and conveyance of, petroleum and helium, and activities incidental to those operations.

(2) Where the Director carries on any operations under this section, he has the same rights, benefits, and privileges as a licensee.

(3) Where the Director carries on any operations under this section, he shall to the extent that they can be practicably applied to him, be subject to the same duties and obligations under this Act as apply to a licensee.

**7. Exploration for and recovery of petroleum.**

A person who—

- (a) explores for petroleum otherwise than under and in accordance with a licence or an instrument of consent issued under this Act; or
- (b) carries on operations for the recovery of petroleum otherwise than under and in accordance with a licence,

is guilty of an offence.

Penalty: A fine not exceeding K50 000.00.

Default penalty: A fine not exceeding K50 000.00.

**PART II.—APPLICATION OF LAWS AND ADMINISTRATION.**

**8. Laws of Papua New Guinea to apply.**

(1) Subject to this Act, the provisions of all laws for the time being in force in Papua New Guinea, and the provisions of any instrument having effect under any of those laws, apply in the offshore area.

(2) The provisions referred to in Subsection (1) apply to and in relation to—

- (a) all acts, omissions, matters, circumstances and things touching, concerning, arising out of, or connected with the exploration for petroleum of the sea, seabed or subsoil of the offshore area; and
- (b) the exploitation of the natural resources, being petroleum, of the sea, seabed or subsoil of the offshore area.

(3) Without limiting the generality of Subsection (2), the provisions that apply in accordance with this section in the offshore area apply—

(a) to and in relation to—

- (i) an act or omission that takes place in, on, above, below, or in the vicinity of the sea, seabed or subsoil of that area; and
- (ii) a matter, circumstance, or thing that exists or arises with respect to or in connexion with a vessel, aircraft, structure or installation or equipment or other property that is in that area for any reason touching, concerning, arising out of or connected with—

(A) the exploration for petroleum; or

(B) the exploitation of the natural resources, being petroleum, of the sea, seabed or subsoil of that area; and

(b) to and in relation to a person who—

(i) is in that area; or

(ii) is in, on, above, below, or in the vicinity of a vessel, aircraft, structure or installation, or equipment or other property that is in that area, for any reason of the kind referred to in Paragraph (a); and

(c) to and in relation to a person in respect of his carrying on any operation or doing any work in that area for any reason of the kind referred to in Paragraph (a).

(4) The regulations may provide that such of the provisions that apply in accordance with this section in the offshore area that are specified in the regulations do not apply, or apply with such modifications as are specified in the regulations.

(5) For the purposes of Subsection (4), "modifications" includes the omission or addition of a provision or the substitution of a provision for another provision.

#### 9. Jurisdiction of courts.

(1) Subject to this section, the several courts of Papua New Guinea are vested with jurisdiction in all matters arising under the provisions applied by Section 8.

(2) The jurisdiction vested in or conferred on courts by Subsection (1) is vested or conferred within the limits (other than limits having effect by reference to localities) of their several jurisdictions, whether those limits are as to subject matter or otherwise.

(3) Subject to this Act, the laws with respect to the arrest and custody of offenders or persons charged with offences, and the procedure for—

(a) their summary conviction; and

(b) their examination and committal for trial on indictment; and

(c) their trial and conviction on indictment; and

- (d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected with it;

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged with an offence against any of the provisions applied by Section 8.

#### 10. Appointment of Director.

The Minister may, by notice in the National Gazette, appoint a person to be the Director for the purposes of this Act.

#### 11. Delegation.

The Director may, by notice in the National Gazette, delegate to an officer all or any of his powers and functions under this Act (except this power of delegation).

#### 12. Petroleum Advisory Board.

(1) There shall be a Petroleum Advisory Board.

(2) Subject to Subsection (3), the Board shall consist of—

(a) the Director, who shall be the Chairman; and

(b) not more than four other members appointed by the Minister by notice in the National Gazette, one of whom shall be appointed as the Deputy Chairman.

(3) If a member of the Board, other than the Chairman or Deputy Chairman is, for any reason, unable to perform his duties as a member, that member may, in writing, appoint a person to act as his substitute for the period of that member's inability, and a person so appointed shall, while so appointed, be a member of the Board.

#### 13. Meetings of the Board.

(1) The Board shall meet as often as is necessary to carry out its functions and at such times and places as the Chairman, or in his absence the Deputy Chairman, directs.

(2) At a meeting of the Board—

(a) the Chairman, or in his absence the Deputy Chairman, and two other members are a quorum; and

(b) all matters shall be decided by a majority of votes and the Chairman, or in his absence the Deputy Chairman, has a deliberative, and, in the event of an equality of votes, also a casting vote.

#### 14. Powers and duties of Board.

(1) The Minister may refer to the Board for advice any question or matter relating to the administration of this Act.

(2) The Board shall inquire into and advise the Minister on any question or matter referred to it under Subsection (1) or as required by this Act.

(3) The referral of a question or matter under Subsection (1) shall be deemed to be a Commission issued under the *Commissions of Inquiry Act*, and the provisions of that Act, including the provisions relating to penalties, apply to and in respect of an inquiry under this section as if the Minister were the Head of State, acting on advice, and the members of the Board were Commissioners within the meaning of that Act.

## PART III.—PETROLEUM EXPLORATION AND DEVELOPMENT.

## Division 1.—Preliminary.

## 15. Graticulation of Earth's surface and constitution of blocks.

(1) For the purposes of this Act, the surface of the Earth shall be deemed to be divided into sections—

- (a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of five minutes, or a multiple of five minutes, of longitude; and
- (b) by the equator and by parallels of latitude that are at a distance from the equator of five minutes, or a multiple of five minutes, of latitude,

each of which is bounded—

- (c) by portions of two of those meridians that are at a distance from each other of five minutes of longitude; and
- (d) by portions of two of those parallels of latitude that are at a distance from each other of five minutes of latitude.

(2) Subject to Subsection (3), all or so much of a graticular section that is contained in the area of the country and the offshore area constitutes a block.

(3) Where the area in respect of which a licence is in force includes one or more portions of a block constituted as provided by Subsection (1)—

- (a) the area of that portion or those portions constitutes a block; and
- (b) the area of the remaining portion or portions of the first-mentioned block (but not including any part of that area in respect of which a licence is in force) constitutes a block.

(4) Where a licence ceases to be in force in respect of an area referred to in Subsection (3)(a), the Minister may, by instrument determine that the area shall be amalgamated with another block or blocks, being a block or blocks—

- (a) constituted as provided by this section; and
- (b) forming part of the graticular section of which the area forms part; and
- (c) that is or are either—
  - (i) a block or blocks in respect of which a licence is in force; or
  - (ii) a block or blocks constituted under Subsection (3)(b).

(5) Where a determination is made under Subsection (4)—

- (a) the area and blocks both the subject of the determination, cease to constitute separate blocks and their areas together constitute a single block; and
- (b) in respect of the area and a block in respect of which there is a licence in force—the block constituted by the determination is a block for the remainder of the term of that licence.

(6) In this Act—

- (a) a reference to a block that is constituted by a graticular section includes a reference to a block that is constituted by the area of a part of a graticular section; and
- (b) a reference to a graticular section that constitutes a block includes a reference to a graticular section part only of which constitutes a block.



**15A. Prospecting licences under Torres Strait Treaty.**

(1) This Part, other than this section and Divisions 3, 6, 8 and 9 does not apply to licences issued under this section.

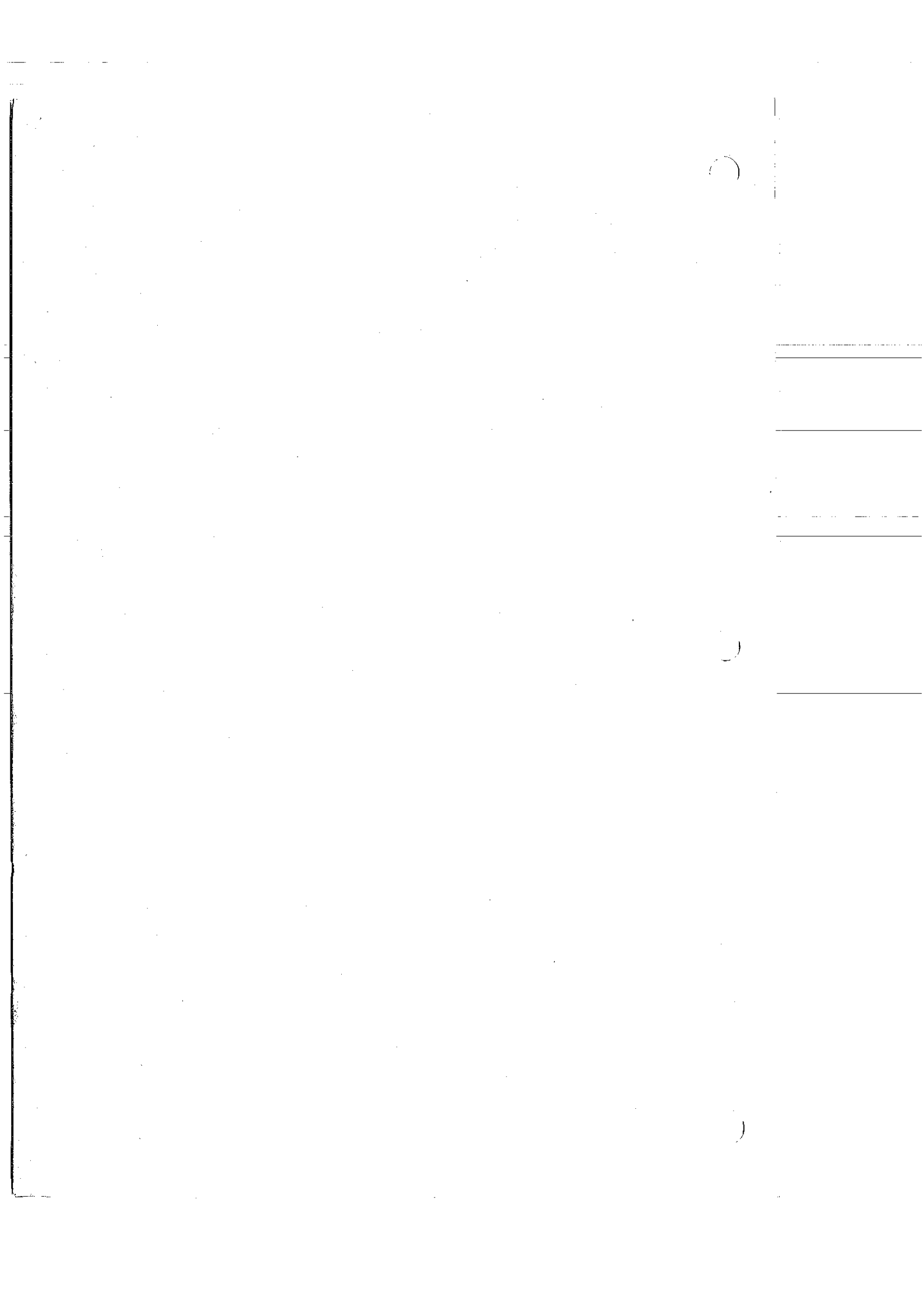
(2) In Divisions 3, 6, 8 and 9 "licence" shall, where applicable, include a licence granted under this section.

(3) In this section "the Treaty" means the Treaty between the Independent State of Papua New Guinea and Australia concerning Sovereignty and Maritime Boundaries in the area between the two countries, including the area known as Torres Strait and related matters signed at Sydney 18 December 1978.

(4) Where, under Article 5 of the Treaty, a person entitled to apply for a petroleum prospecting licence, so applies, the Minister shall grant to him a petroleum prospecting licence.

(5) A licence granted under Subsection (2) shall be granted on terms that are not less favourable than a licence granted under Division 2.

*(Added by No. 26 of 1984, (s. 4.)*



**16. Issue of licences.**

(1) Subject to this Act, a licence may be issued to a person in respect of any block except a block that is, at the time the application for the licence is made—

- (a) comprised in a licence; or
- (b) reserved by declaration under Section 17.

(2) A petroleum prospecting licence may be held by a natural person, or a corporation incorporated, or registered as a foreign company, under the *Companies Act*.

(3) A petroleum development licence may be held by—

- (a) a natural person; or
- (b) a corporation that—
  - (i) carries on only activities from which assessable income from petroleum, as that expression is defined in the *Income Tax Act*, is or may be derived; and
  - (ii) subject to Subsection (4), is incorporated under the *Companies Act* and has its principal place of business in the country.

(4) Where the Minister is satisfied that—

- (a) a corporation that is registered as a foreign company under the *Companies Act* and that—
  - (i) is—
    - (A) the holder of a petroleum prospecting licence; or
    - (B) an applicant for a petroleum development licence; and
  - (ii) complies with Subsection (3)(b)(i); or
- (b) a corporation that is, within the meaning of the *Companies Act*, related to any such corporation,

would suffer a material tax detriment in its country of origin as a result of the incorporation of a subsidiary in Papua New Guinea, he may issue a petroleum development licence to the first-mentioned corporation, subject to such conditions as he thinks fit.

(5) A notification of the issue of a licence shall be published in the National Gazette.

**17. Reservation of blocks.**

(1) The Minister may, by notice in the National Gazette, declare that a block or blocks specified in the notice (not being a block or blocks in respect of which a licence is in force) shall not be the subject of a licence, and may in the same manner revoke or vary such notice.

(2) While a declaration under Subsection (1) remains in force in respect of a block or blocks, a licence shall not be granted in respect of that block or those blocks.

*Division 2.—Petroleum Prospecting Licences.***18. Applications for petroleum prospecting licences.**

(1) A person may make an application to the Director for the grant of a petroleum prospecting licence in respect of any block or blocks.

(2) The Minister may, by notice in the National Gazette—

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

19. Form of application, etc.

(1) An application made under, or as a result of an invitation under, Section 18—

- (a) shall be in an approved form; and
- (b) shall be made in an approved manner; and
- (c) subject to Subsection (2)—shall be in respect of not more than 60 blocks; and
- (d) shall be accompanied by particulars of—
  - (i) the detailed proposals of the applicant for work and expenditure in respect of the block or blocks specified in the application during the first two years of the term of the licence and an outline of proposals for work and expenditure during the remaining four years of the licence; and
  - (ii) the technical qualifications of the applicant and of his employees; and
  - (iii) the technical advice available to the applicant; and
  - (iv) the financial resources available to the applicant; and
- (e) may set out any other matters that the applicant wishes the Minister to consider; and
- (f) shall be accompanied by a fee of K2 000.00.

(2) The Minister may consider an application in respect of more than 60 but not more than 200 blocks where he is satisfied that special circumstances exist for his doing so.

(3) The blocks specified in the application referred to in Subsections (1) and (2) shall be constituted by graticular sections that—

- (a) form a single area; and
- (b) are such that each graticular section in that area has a side in common with at least one other graticular section in that area.

(4) The Director may, at any time, by instrument served on the applicant, require him to furnish, within the time specified in the instrument, such further written information in connexion with his application as the Director considers necessary.

(5) Where an application is received under, or as a result of an invitation under, Section 18—

- (a) notice of the application shall be published by the Director in the National Gazette; and
- (b) any person who claims to be affected by the application may file notice of his objection to that application with the Director within one month after the date of publication of the notice of application and all objections shall be considered by the Board before the Board reports on the application.

(6) As soon as practicable after the granting of a licence in respect of any block or blocks specified in an application made under, or as a result of an invitation under, Section 18, the Minister shall cause to be published in the National Gazette, particulars of any licence so granted.

**20. Grant or refusal of petroleum prospecting licence.**

(1) Where an application has been made under, or as a result of an invitation under, Section 18, the Minister may, after considering a report from the Board—

(a) by instrument served on the applicant, inform the applicant—

(i) that he is prepared to grant to the applicant a petroleum prospecting licence in respect of any or all of the blocks specified in the instrument, being blocks to which the application relates; and

(ii) that the applicant will be required to lodge a security for compliance with the conditions to which the licence, if granted, will be subject, and with the provisions of this Part and the regulations, and to pay the first annual fee; or

(b) refuse to grant a licence to the applicant.

(2) An instrument under Subsection (1)(a) shall contain—

(a) the conditions subject to which the licence is to be granted; and

(b) a statement to the effect that the application will lapse if the applicant does not make a request under Subsection (3) in respect of the grant of the licence and lodge with the Director the security specified in the instrument and the first annual fee.

(3) An applicant who has been served with an instrument under Subsection (1) may, within a period of one month after the date of service of the instrument on him, or within such further period, not exceeding three months, as the Minister may allow—

(a) by instrument served on the Minister request the Minister to grant him the licence; and

(b) lodge with the Director the security referred to in Subsection (1)(a) and the first annual fee referred to in that subsection.

(4) Where an applicant has complied with the requirements of Subsection (3), the Minister shall grant to him a petroleum prospecting licence in respect of the block or blocks specified in the instrument, subject to the conditions specified in the instrument or such other conditions as are agreed on by the Minister and the applicant, but in any other case the application lapses.

**21. Rights conferred by petroleum prospecting licence.**

A petroleum prospecting licence, while it remains in force, confers on the licensee, subject to this Act, and to the conditions specified in the licence, the exclusive right to explore for petroleum, and to carry on such operations and execute such works as are necessary for that purpose, in the licence area, including the construction and operation of water lines.

**22. Term of petroleum prospecting licence.**

Subject to this Part and to any condition in the licence, a petroleum prospecting licence remains in force—

(a) for a period of six years commencing on the day the licence takes effect; and

(b) where the licence is extended under Section 25—for a further period of five years; and

(c) where the licence is extended under Section 26—for the further period specified by the Minister on the grant of the extension.

**23. Application for extension of petroleum prospecting licence.**

(1) Subject to Section 24, the holder of a petroleum prospecting licence may make an application to the Director for the extension of the petroleum prospecting licence in respect of any block or blocks in the licence area.

(2) An application under this section may be made once only in respect of any petroleum prospecting licence.

(3) An application under this section—

- (a) shall be in an approved form; and
- (b) shall be made in an approved manner; and
- (c) shall be made not less than three months before the day on which the licence is due to expire; and
- (d) shall be accompanied by particulars of—
  - (i) the work carried out in, and the amounts expended in respect of, the licence area during the term of the licence up to and including the date of the application; and
  - (ii) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application; and
- (e) may set out any other matters that the applicant requires the Minister to consider; and
- (f) shall be accompanied by a fee of K2 000.00.

(4) The Minister may, after considering a report from the Board, accept an application for the extension of a licence less than three months before, but not in any case after, the date of expiry of the licence.

**24. Application for extension to be in respect of reduced area.**

(1) The number of blocks in respect of which an application for the extension of a petroleum prospecting licence may be made shall not exceed the number that is the sum of—

- (a) the number of the blocks (if any) the subject of the licence that, at the date of expiration of the licence, were a location; and
- (b) half the number of blocks in respect of which the licence was issued.

(2) The blocks specified in an application for extension of a licence shall be blocks that relate to graticular sections that—

- (a) constitute a single area or not more than three discrete areas; and
- (b) are such that each graticular section in each area has a side in common with at least one other graticular section in that area.

**25. Grant or refusal of extension of petroleum prospecting licence.**

(1) Where a licensee has made an application under Section 23 for an extension of a petroleum prospecting licence and has furnished any additional information in connexion with the application required by the Director, the Minister—

- (a) shall, if the licensee has complied with the conditions to which the licence is subject and the provisions of this Part and of the regulations; or
- (b) may, if the licensee has not complied with the conditions to which the licence is subject or the provisions of this Part or of the regulations or any of them

and the Minister after considering a report from the Board is satisfied that although the licensee has not so complied, special circumstances exist that justify the granting of the extension of the licence,

inform the licensee, by instrument served on the licensee—

- (c) that he is prepared to grant to the licensee the extension of the licence; and
- (d) that the licensee will be required to lodge a security, or extend a security already lodged, for compliance with—
  - (i) the conditions to which the licence, if the extension is granted, will from time to time be subject; and
  - (ii) with the provisions of this Part and of the regulations; and
- (e) of the amount of the next annual fee.

(2) If the licensee has not complied with the conditions to which the licence is subject and with the provisions of this Part and of the regulations or any of them, and if the Minister is not satisfied that special circumstances exist that justify the granting of the extension of the licence, the Minister shall, subject to Subsection (3), by instrument served on the licensee, refuse to grant the extension of the licence.

(3) The Minister shall not refuse to grant the extension of a licence under this section unless—

- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to refuse to grant the extension of the licence; and
- (b) he has caused a copy of the instrument to be served on such other persons (if any) as he thinks fit; and
- (c) he has, in the instrument—
  - (i) given particulars of the reasons for the intention; and
  - (ii) specified a date on or before which written submissions may be served on the Minister in connexion with the proposed refusal; and
- (d) after—
  - (i) taking into account any matters submitted to him under Paragraph (c)(ii) on or before the specified date; and
  - (ii) considering a report from the Board on those matters,he is not satisfied that special conditions exist that justify the granting of the extension of the licence.

(4) An instrument under Subsection (1) shall—

- (a) specify the conditions to which the licence, on the grant of the extension, is to be subject; and
- (b) contain a statement to the effect that the application will lapse if the applicant does not—
  - (i) make a request under Subsection (5) in respect of the grant of the extension of the licence; and
  - (ii) lodge with the Director the security specified in the instrument and the annual fee.

(5) A licensee who has been served with an instrument under Subsection (1) may, within a period of one month after the date of service of the instrument on him—

- (a) by instrument served on the Minister request the Minister to grant to him the extension of the licence; and
- (b) lodge with the Director the security specified in the instrument and the annual fee.

(6) Where a licensee who has been served with an instrument under Subsection (1) has, within the period specified in Subsection (5), complied with the requirements of that subsection, the Minister shall grant to him the extension of the licence.

(7) Where a licensee who has been served with an instrument under Subsection (1) has not—

- (a) made a request under Subsection (5); or
- (b) lodged with the Director the security specified in the instrument and the annual fee,

within the period referred to in Subsection (5), the application lapses at the end of that period.

(8) Where—

- (a) an application for the extension of a licence has been made; and
- (b) the licence expires—
  - (i) before the Minister grants, or refuses to grant, the extension of the licence; or
  - (ii) before the application lapses under Subsection (7),

the licence shall be deemed to continue in force until the Minister grants or refuses to grant the extension of the licence, or the application lapses under Subsection (7), whichever first occurs.

(9) As soon as practicable after the grant or refusal of an extension of a licence under this section, the Minister shall cause to be published in the National Gazette particulars of any extension so granted or, in the case of a refusal, a statement to that effect.

(10) Where a petroleum prospecting licence is not extended on an application, 90% of the fee referred to in Section 23(3)(f) shall be refunded to the applicant.

## 26. Extension of petroleum prospecting licences in respect of locations.

(1) Where—

- (a) petroleum is discovered in a licence area within the period of two years before the date of expiration of a petroleum prospecting licence that has been extended under Section 25; and
- (b) the Minister has made a declaration of a location under Section 30, or the licensee has nominated a block under that section for the purpose of a declaration of a location,

the Minister may grant a further extension of the licence in respect of the block to which Paragraph (b) applies.

(2) A further extension granted under Subsection (1)—

- (a) shall be for a period not exceeding three years; and
- (b) shall be subject to any conditions that the Minister, after considering a report of the Board, thinks fit and specifies in the licence.



(3) Where, before the expiration of a petroleum prospecting licence that includes blocks that constitute a location, the licensee—

- (a) makes written application to the Minister for an extension or a further extension of the licence in respect of some or all of those blocks; and
- (b) satisfies the Minister that—
  - (i) the blocks contain all or part of a petroleum pool; and
  - (ii) the construction, establishment and operation of facilities for the recovery of petroleum is not economically feasible,

the Minister may grant an extension or a further extension of the petroleum prospecting licence in respect of those blocks.

(4) An extension under Subsection (3) shall be for a period not exceeding one year.

**27. Conditions of grant of petroleum prospecting licence.**

(1) A petroleum prospecting licence may be granted subject to such conditions as the Minister, after considering the advice of the Board, thinks fit and specifies in the licence.

(2) In addition to conditions included in a petroleum prospecting licence under Subsection (1) or an extension of that licence under Section 25, the licence is subject to the conditions—

- (a) that acceptable proposals for work and expenditure in the third, fourth, fifth, and sixth years, if applicable, of the licence or that extension shall be submitted to the Minister for approval not later than two months before the expiration of the second and fourth years of the licence or that extension, as the case requires; and
- (b) that in, or in relation to the licence area, the licensee will, during the first two years of the licence, carry out the work and expend the amounts specified in the licence for those years; and
- (c) that at the end of the period of six months after the date of grant of the licence and at the end of every subsequent period of six months of the term of the licence, the licensee shall forward to the Director, in duplicate, a report showing the nature and results of prospecting operations conducted during the immediately preceding period of six months, with a plan of the area prospected, showing all available information together with a programme of his operations for the next succeeding six months; and
- (d) that, at the end of the period of six months after the date of grant, and at the end of every subsequent period of six months, the licensee shall forward to the Director a statement, in duplicate, showing the amounts expended in relation to the licence during the immediately preceding period of six months; and
- (e) that, at the end of each year of the licence, the licensee shall present to the Director a report on prospecting operations in the previous year and proposed operations for the following year.

(3) The conditions to which a licence or an extension of that licence under Section 25 is subject, including the conditions specified in Subsection (2), may be varied in the third, fourth, fifth and sixth years, if applicable, insofar as they relate to the work programme and in accordance with proposals submitted under Subsection (2)(a).

*Division 3.—Discovery of Petroleum in Licence Area.*

**28. Discovery of petroleum to be notified.**

(1) Where petroleum is discovered in a licence area, the licensee—

- (a) shall immediately inform the Director of the discovery; and
- (b) shall, within a period of three days after the date of the discovery, furnish to the Minister written particulars of the discovery.

(2) Where petroleum is discovered in a licence area, the Director may, from time to time, by instrument served on the licensee, direct the licensee to furnish to him, within the period specified in the instrument, written particulars of—

- (a) the chemical composition and physical properties of the petroleum; and
- (b) the nature of the subsoil in which the petroleum occurs; and
- (c) any other matters relating to the discovery that are specified by the Director in the instrument.

(3) A person to whom a direction is given under Subsection (2) who fails or refuses to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**29. Directions by Minister on discovery of petroleum.**

(1) Where petroleum is discovered in a licence area, the Minister may, by instrument served on the licensee, direct the licensee to do, within the period specified in the instrument, such things as the Minister thinks necessary and specifies in the instrument to determine—

- (a) the chemical composition and physical properties of the petroleum; and
- (b) the quantity of petroleum in the petroleum pool to which the discovery relates, or if part only of that petroleum pool is within the licence area, in the part of the petroleum pool that is within the licence area.

(2) A person to whom a direction is given under Subsection (1) who fails or refuses to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**30. Declaration of location.**

(1) In this section, "discovery block" means a block in which petroleum has been discovered.

(2) Where petroleum has been discovered in a block within a petroleum prospecting licence (not being a block that is or is included in a location) the Minister—

- (a) shall, on receipt of a request from the licensee; and
- (b) may in any case,

declare by notice in the National Gazette—

- (c) in a case referred to in Paragraph (a)—the discovery block and not more than eight adjoining blocks within the petroleum prospecting licence area that are nominated by the licensee; or
- (d) in any other case—the discovery block and such adjoining blocks as the Minister thinks proper,

to be a location for the purposes of this Act.

(3) At the request of the licensee the Minister may, by notice in the National Gazette—

- (a) include in a location additional adjoining blocks; or
- (b) revoke the declaration of a location in respect of one or more blocks,

but a location may not at any time include more than nine blocks.

(4) For the purposes of this section, a block adjoins a discovery block, if the graticular section that constitutes or includes the first-mentioned block has a side in common with, or touches—

- (a) the discovery block; or
- (b) any block that has a side in common with, or touches, the discovery block.

### 31. Investigations, etc., of locations.

(1) Where a location has been declared under Section 30, the Minister may, by written notice served on the licensee, direct that the licensee carry out, within a period specified in the notice of not less than two years, such investigations and studies as the Minister thinks proper to assess the feasibility of the construction, establishment and operation of an industry for the recovery of petroleum from the location.

(2) The investigations and studies referred to in Subsection (1) may include—

- (a) technical and economic feasibility studies relating to the recovery, processing and transport of petroleum from the location; and
- (b) studies of proposed sites for facilities that would be required by the industry referred to in Subsection (1); and
- (c) studies of port or berthing facilities, and roads, pipelines or other transportation facilities; and
- (d) investigations into—
  - (i) suitable water facilities and reticulation systems for industrial and town purposes; and
  - (ii) the location and design of a suitable airstrip and associated landing and terminal facilities, if required; and
  - (iii) the generation and transmission of electricity as required; and
- (e) investigations into the development, if required, of a suitable town for the industry referred to in Subsection (1), including the design of housing facilities and associated civic, cultural and social facilities; and
- (f) investigations of any other works, services or facilities that may be required by that industry in relation to the location; and
- (g) studies of future labour requirements for that industry; and
- (h) physical impact studies into the possible effects of that industry on the environment.

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

*Division 4.—Petroleum Development Licences.*

**32. Application by petroleum prospecting licensee for petroleum development licence.**

(1) A licensee whose petroleum prospecting licence is in force in respect of the blocks that constitute a location may, within two years after the date on which the blocks were declared to be a location, or such further period as the Minister allows, make application to the Director for the grant of a petroleum development licence in respect of such of the blocks as the licensee satisfies the Minister contain a petroleum pool or a part of a petroleum pool.

(2) A licensee may, during the term of a petroleum prospecting licence, make application to the Director for a petroleum development licence in respect of any block or blocks within the licence area—

- (a) that he satisfies the Minister contains or contain a petroleum pool or part of a petroleum pool; and
- (b) that do not at the time of making the application constitute a location.

(3) A person who is not the holder of a licence in respect of the block or blocks may make application to the Director for a petroleum development licence in respect of a block or blocks—

- (a) that he satisfies the Minister contains or contain a petroleum pool or part of a petroleum pool; and
- (b) that is not a block or are not blocks in respect of which a petroleum prospecting licence or a petroleum development licence is in force at the time of the application.

**33. Application for petroleum development licence.**

(1) An application under Section 32—

- (a) shall be in an approved form; and
- (b) shall be made in an approved manner; and
- (c) 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 licence area; and
- (d) may set out any other matters that the applicant wishes the Minister to consider; and
- (e) shall be accompanied by a fee of K10 000.00.

(2) The Director may, by instrument served on the applicant, require him to furnish, within a period specified in the instrument—

- (a) such further written information in connexion with his application as the Director specifies in the instrument; and
- (b) such proposals, in addition to or by way of alteration to any proposals that have already been furnished under Subsection (1) as the Director specifies in the instrument, including proposals relating to any of the matters referred to in Section 31(2).

34. Notification of grant of petroleum development licence.

(1) Where an application for the grant of a petroleum development licence has been made under Section 32(1) or (2) and the applicant has furnished proposals and any further information required by the Director under Section 33, the Minister shall, by instrument served on the applicant, inform the applicant—

(a) that—

- (i) he is prepared to approve the proposals wholly or in part, and to grant to the applicant on the basis of the approved proposals, a licence in respect of the blocks specified in the application; and
- (ii) the applicant will be required to lodge a security deposit for compliance with—
  - (A) the conditions relating to the protection and restoration of the environment; and
  - (B) the provisions of this Part and the regulations; and
  - (C) any requirement in any law relating to the protection and restoration of the environment, or any condition imposed on the licensee under any such law; and
- (iii) the applicant will be required to pay the first annual fee as a condition of the grant of the licence; or

(b) that he will defer consideration of a decision on the proposals until the applicant furnishes such proposals, in addition to or by way of alteration to the proposals furnished under Section 33 as the Minister specifies in the instrument, including proposals relating to any of the matters referred to in Section 31(2); or

(c) that he is prepared to approve the proposals and to grant to the applicant a licence in respect of the blocks specified in the application, subject to the applicant—

- (i) making such alterations to the proposals; or
- (ii) complying with such conditions in relation to the proposals, as the Minister thinks reasonable.

(2) Where an application is made under Section 32(3), the Minister may—

- (a) refuse to grant the application and advise the applicant accordingly; or
- (b) treat the application as an application made under Section 32(1) or (2).

(3) Where, under Subsection (2), the Minister elects to treat an application as an application made under Section 32(1) or (2), that application shall, for the purposes of this section and Section 35, be deemed to be an application so made.

(4) In the case of an instrument to which Subsection (1)(c) applies, the Minister shall give to the applicant details of his reasons for requiring the alterations or imposing the conditions referred to in the instrument.

(5) An instrument under Subsection (1)(a), (b) or (c) shall contain a statement to the effect that the application will lapse if—

- (a) the applicant does not furnish any further proposals that the Minister requires within such period as the Minister specifies in the instrument, being a period of not less than two months or more than one year; or

- (b) the applicant does not make a request under Section 35(1) in respect of the grant of the licence; or
- (c) the applicant does not pay to the Director the first annual fee; or
- (d) the applicant does not lodge with the Director the security specified in the instrument.

### 35. Grant of petroleum development licence.

(1) An applicant who has been served with an instrument under Section 34(1) may, before the expiration of—

- (a) the period of three months after the date of service of the instrument on him or such further period, not exceeding three months, as the Minister allows; or
- (b) the period specified by the Minister under Section 34(5)(a),

whichever is the later, by instrument served on the Minister—

- (c) request the Minister to grant to him the licence to which the first-mentioned instrument relates; and
- (d) furnish the Minister with any further proposals required under Section 34(1)(b); and
- (e) pay the first annual fee to the Director; and
- (f) lodge with the Director the security deposit referred to in the instrument issued under Section 34(1)(a).

(2) Where—

- (a) an applicant has, within whichever period referred to in Subsection (1) is the later—
  - (i) made a request under Subsection (1)(c); and
  - (ii) paid the first annual fee to the Director; and
  - (iii) furnished the Minister with any further proposals required under Section 34(1)(b); and
  - (iv) lodged with the Director the security deposit referred to in the instrument issued under Section 34(1)(a); and
- (b) the applicant's proposals and further proposals—
  - (i) provide for the optimum development of the petroleum pool in accordance with good oilfield practice; and
  - (ii) provide adequately for the protection of the environment and the welfare of the people of the area and are otherwise in the best interest of Papua New Guinea,

the Minister shall approve the proposals and grant to the applicant a petroleum development licence in respect of the blocks referred to in Section 34(1)(c), but in any other case the Minister may, by instrument, refuse to grant the licence.

(3) The Minister shall not refuse under Subsection (2) to grant the licence unless—

- (a) he has, by the instrument referred to in Subsection (2) served on the applicant, given not less than one month's notice of his intention to do so; and
- (b) he has, in that instrument—
  - (i) given particulars of the reasons for his intention; and

(ii) specified a date on or before which the applicant may, by instrument served on the Minister, submit any matters that the applicant requires the Minister to consider, including new proposals generally or in respect of some particular matter; and

(c) he has given to the applicant, and to any persons whom the applicant thinks fit to consult, a full opportunity to consult with the Minister concerning the Minister's intention to refuse the licence; and

(d) he has taken into account, after considering a report from the Board, any matters raised in the course of such consultations by the applicant or by any other person referred to in Paragraph (c).

(4) Where the grounds for the Minister's refusal, under this section, of an application is that the applicant's proposals or further proposals do not satisfy the requirements of Subsection (2)(b), the applicant may, by written notice to the Minister before the date referred to in Subsection (3)(b)(ii), require that the question be referred to arbitration.

(5) The method of arbitration for the purpose of Subsection (4) may be the subject of a written agreement between the State and the applicant, and the method so agreed will be binding on the Minister.

(6) Where the method of arbitration is not the subject of an agreement referred to in Subsection (5), the matter stands referred to arbitration in accordance with the *Arbitration Act* on receipt by the Minister of the requirement.

(7) Where a matter is referred to arbitration under this section, the application does not lapse until the arbitrator has made his award and, where the award is made in the applicant's favour, the Minister has granted the petroleum development licence.

(8) Subject to Subsection (7), where an applicant has been served with an instrument under Subsection (2) refusing to grant an application, the application lapses at the end of the period referred to in Subsection (3)(b)(ii) unless the Minister withdraws his refusal.

(9) Where a licensee makes application under Section 32(1) or (2) for a petroleum development licence and the petroleum prospecting licence expires before the application has been dealt with in accordance with this section, the Minister shall not consider any other applications in respect of the block or blocks until the first-mentioned application has been dealt with.

**36. Variation of petroleum development licence area.**

(1) The holder of a petroleum development licence may make application to the Minister for a variation of the licence by the inclusion of an additional block or blocks—

(a) having a side or sides in common, or touching, a block the subject of the petroleum development licence; and

(b) not being the subject of a petroleum prospecting licence or petroleum development licence held by a person other than the applicant.

(2) Where an application is made under Subsection (1), the Minister may, by instrument served on the licensee, vary the licence to include in the licence area the block or blocks to which the application relates.

(3) From and including the day on which a variation of a licence under this section takes effect—

(a) the blocks included in the licence area by reason of the variation are, subject to this Part, for the remainder of the term of the licence, blocks in respect of which the licence is in force; and

- (b) any petroleum prospecting licence that is in force in respect of the blocks so included is revoked.

### 37. Revocation of declaration of location.

(1) Where, in respect of a block included in a location, the licensee does not within—

- (a) a period of two years following the declaration of the location under Section 30(1); or
- (b) any further period that the Minister allows under Section 32(1),

apply for a petroleum development licence, the Minister shall, by notice in the National Gazette, revoke the declaration of the location.

(2) Where all applications made under Section 32(1) for a petroleum development licence in respect of a block that is included in a location have lapsed, the petroleum prospecting licence is revoked in respect of that block.

(3) Where a petroleum prospecting licence is revoked under Subsection (2), the Minister shall, by notice in the National Gazette, revoke the declaration of the location so far as it includes that block.

### 38. Rights conferred by petroleum development licence.

A petroleum development licence, while it remains in force confers on the licensee, subject to this Act and to the conditions specified in the licence, exclusive rights—

- (a) to explore for petroleum in the licence area; and
- (b) to carry on operations for the recovery of petroleum in the licence area; and
- (c) to sell or otherwise dispose of the petroleum so recovered; and
- (d) to carry on such operations and execute such works in the licence area as are necessary for or in connexion with the purposes specified in Paragraphs (a), (b), and (c) including the construction and operation of secondary lines and water lines.

### 39. Term of petroleum development licence.

Subject to this Part and to any condition in the licence, a petroleum development licence remains in force—

- (a) for a period of 25 years commencing on the day on which the licence takes effect; and
- (b) where the licence has been extended under Section 41—for such further period not exceeding 20 years as the Minister determines is reasonably required to recover from the licence area the maximum amount of petroleum the recovery of which is consistent with good oilfield practice.

### 40. Application for extension of petroleum development licence.

(1) The holder of a petroleum development licence may make an application to the Minister for an extension of the licence.

(2) An application under this section may be made once only in respect of a licence.

(3) An application for an extension of a licence—

- (a) shall be in an approved form; and
- (b) subject to Subsection (4), shall be made in an approved manner not later than six months before the day on which the licence is due to expire; and



(c) shall be accompanied by particulars of—

- (i) the work carried out, the petroleum produced, and the amounts expended and received in respect of the licence area up to and including a date not earlier than one month immediately preceding the date of application; and
- (ii) the proposals of the licensee for work and expenditure in respect of the licence area; and

(d) shall be accompanied by a fee of K10 000.00.

(4) The Minister may, after considering a report from the Board, accept an application for the extension of a licence later than six months before the licence is due to expire, but in any case not after the licence has expired.

#### 41. Grant or refusal of extension of petroleum development licence.

(1) Where a licensee who has complied with the conditions specified in the licence and with the provisions of this Part and of the regulations, makes an application under Section 40 for the extension of a licence, the Minister shall inform the licensee, by instrument served on the licensee, that he is prepared to grant to the licensee the extension of the licence.

(2) Where a licensee who has not complied with the conditions specified in the licence or with the provisions of this Part or with the regulations, makes an application under Section 40 for the extension of a licence, the Minister may, if after considering a report from the Board, he is satisfied that, although the licensee has not so complied, special circumstances exist that justify the granting of the extension of the licence, inform the licensee, by instrument served on the licensee, that he is prepared to grant to him an extension of the licence.

(3) If a licensee has not complied with the conditions specified in the licence or with the provisions of this Part or of the regulations, and if the Minister is not satisfied that special circumstances exist that justify the granting of the extension of the licence, the Minister shall, subject to Subsection (4), by instrument served on the licensee, refuse to grant the extension of the licence.

(4) The Minister shall not refuse to grant the extension of a licence unless—

- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to refuse to grant the extension of the licence; and
- (b) he has served a copy of the instrument on such other persons (if any) as he thinks fit; and
- (c) he has, in the instrument—
  - (i) given particulars of the reasons for his intention to refuse; and
  - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument is served may, by instrument served on the Minister, submit any matters that he requires the Minister to consider; and
- (d) he has taken into account, after considering a report from the Board, any matters so submitted to him, on or before the specified date, by the licensee or a person on whom a copy of the instrument has been served.

(5) An instrument under Subsection (1) or (2) shall contain—

- (a) a summary of the conditions to which the grant of the extension is to be subject; and
- (b) a statement to the effect that the application will lapse if the licensee—
  - (i) does not make a request under Subsection (6); and
  - (ii) does not pay the annual fee.

(6) A licensee who has been served with an instrument under Subsection (1) or (2) may, within a period of one month after the date of service of the instrument on him—

- (a) by instrument served on the Minister, request the Minister to grant to him the extension of the licence; and
- (b) pay the next annual fee.

(7) Where a licensee who has been served with an instrument under Subsection (1) or (2)—

- (a) has made a request under Subsection (6); and
- (b) has paid the next annual fee,

within the period referred to in that subsection, the Minister shall grant to him the extension of the licence.

(8) Where a licensee who has been served with an instrument under Subsection (1) or (2)—

- (a) has not made a request under Subsection (6); and
- (b) has not paid the next annual fee within the period referred to in Subsection (6),

the application lapses at the end of the period specified in Subsection (6).

(9) Where—

- (a) an application for the extension of a licence is made under Section 40; and
- (b) the licence expires—
  - (i) before the Minister grants, or refuses to grant, the extension of the licence; or
  - (ii) before the application lapses under Subsection (8),

the licence shall be deemed to continue in force in all respects—

- (c) until the Minister refuses to grant the extension of the licence; or
- (d) until the application lapses under Subsection (8),

whichever first occurs.

**42. Conditions of petroleum development licence.**

A petroleum development licence and any extension of a petroleum development licence—

- (a) is subject to a condition that the licensee will carry out the proposals approved under Section 35(2); and
- (b) may be made subject to such other conditions not inconsistent with this Act—
  - (i) as the Minister thinks proper and specifies in the licence or extension of the licence; or

- (ii) in respect of any matter or matters arising out of the applicant's proposals referred to in Section 33(1)(c) that are not administered under this Act, as the Minister, after consultation with the Minister responsible for administering that matter or those matters, thinks proper and specifies in the licence or extension of the licence.

**43. Unit development.**

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

(2) A licensee may, from time to time, enter into a written agreement for or in relation to the unit development of a petroleum pool.

(3) The Minister may of his own motion or on written application made to him by a licensee in whose licence area there is a part of a particular petroleum pool, after receiving the advice of the Board, for the purpose of securing the more effective recovery of petroleum from that petroleum pool, direct any licensee whose licence area includes part of that petroleum pool to enter into a written agreement within the period specified by the Minister for or in relation to the unit development of the petroleum pool, and to lodge the agreement with the Minister immediately for approval and registration in accordance with Section 64.

(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 pool does not enter into such an agreement within the specified period; or
- (b) a licensee enters into such an agreement but the agreement is not lodged with the Minister in accordance with Subsection (3), or if so lodged is not approved under Section 64,

the Minister may, by instrument served on the licensee, direct the licensee to submit to him, within the period specified in the instrument, a scheme for or in relation to the unit development of the petroleum pool.

(5) An agreement under this section is an instrument to which Section 64 applies.

**44. Directions as to recovery of petroleum.**

(1) Where petroleum is not being recovered in a licence area and the Minister, with the advice of the Board, is satisfied that there is recoverable petroleum in that area, he may, by instrument served on the licensee, direct the licensee to take all necessary and practicable steps to recover that petroleum.

(2) Where the Director is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under Subsection (1), the Director may, by instrument served on the licensee, give to the licensee such directions as the Director thinks necessary for or in relation to the recovery of petroleum in the licence area.

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

(4) Where the Director is not satisfied with the steps taken or being taken by a licensee to whom a direction has been given under Subsection (3), the Director may, by instrument served on the licensee, give to the licensee such directions as the Director thinks necessary for or in relation to the increase or reduction of the rate at which petroleum is being recovered in the licence area.

*Division 5.—Pipeline Licences.*

**45. Construction, etc., of pipelines.**

A person who commences or continues the construction of, alters, reconstructs or operates a pipeline, pumping station, tank station or valve station for or in connexion with the prospecting for, conveyance of or supply, recovery or production of, petroleum under this Act except under and in accordance with a pipeline licence is guilty of an offence.

Penalty: A fine not exceeding K2 000.00.

Default penalty: A fine not exceeding K2 000.00.

**46. Acts done in an emergency.**

It is not an offence against Section 45—

- (a) if, in an emergency, a person does an act to avoid loss or injury or to maintain the pipeline, pumping station, tank station or valve station in good order and repair and notifies an inspector as soon as practicable of the act done; or
- (b) if a person does an act in compliance with a direction given under this Act.

**47. Removal of pipeline.**

(1) Where the construction of a pipeline, pumping station, tank station or valve station is commenced, continued, completed, altered or reconstructed in contravention of this Act, the Director may, by instrument served on the appropriate person, direct him—

- (a) to make such alterations to the pipeline, pumping station, tank station or valve station as are specified in the instrument; or
- (b) to move the pipeline, pumping station, tank station or valve station to a specified area or to remove it entirely,

within the period specified in the instrument.

(2) For the purpose of Subsection (1), the appropriate person is—

- (a) where construction of the pipeline, pumping station, tank station or valve station has been completed—its owner; or
- (b) where the construction of the pipeline, pumping station, tank station or valve station has not been completed—the persons for whom it is being constructed.

(3) Where a person who has been served with an instrument under Subsection (1) does not, within the period specified in the instrument, comply with the direction, the Director may do all or any of the things required by the direction to be done.

(4) Any costs and expenses incurred by the Director under Subsection (3) are a debt due from the person referred to in that subsection to the State.

**48. Application for pipeline licence.**

(1) Subject to Subsection (2), a natural person or a corporation incorporated under the *Companies Act* and having its principal place of business in the country, may apply to the Minister for the grant of a pipeline licence.

(2) Where an applicant shows that—

- (a) a corporation that is registered as a foreign company and that is an applicant for a pipeline licence; or
- (b) a corporation that is related, within the meaning of the *Companies Act* to any such corporation,

would suffer a material tax detriment in its country of origin as a result of the incorporation of a subsidiary in Papua New Guinea, the Minister may permit an application for the grant of a pipeline licence to be made by the first-mentioned corporation subject to such conditions as he thinks fit.

(3) The Minister shall cause a notice of an application for a pipeline licence under this section to be published in the National Gazette.

(4) An application for a pipeline licence—

- (a) shall be in an approved form; and
- (b) shall be made in an approved manner; and
- (c) shall be accompanied by particulars of—
  - (i) the proposed design and construction of the pipeline; and
  - (ii) the proposed size and capacity of the pipeline; and
  - (iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline; and
  - (iv) the technical qualifications of the applicant and his employees; and
  - (v) the technical advice available to the applicant; and
  - (vi) the financial resources available to the applicant; and
  - (vii) any agreement entered into, or proposed to be entered into, by the applicant for or in relation to the supply or conveyance of petroleum by means of the pipeline; and
- (d) shall be accompanied by a plan, drawn to an approved scale, showing—
  - (i) the route to be followed by the pipeline; and
  - (ii) the sites of pumping stations, tank stations, and valve stations to be used in connexion with the pipeline; and
- (e) may set out any matter that the applicant wishes the Minister to consider; and
- (f) shall be accompanied by a fee of K10 000.00.

(5) Where a notice under Subsection (3) of an application by a person for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a location is published in the National Gazette, the registered holder of the petroleum development licence for that location may, within a period of two months after the date of publication, make an application to the Minister for such a pipeline licence and, in the application, request that the application referred to in the notice be rejected.

(6) Where a pipeline licence is granted to a registered holder of a petroleum development licence on an application under Subsection (5), the Minister shall, by

instrument served on the original applicant, reject the application referred to in the notice under Subsection (3).

(7) The Director may, at any time, by instrument served on a person who has made an application under this section, require him to furnish such written information in connexion with his application as the Minister considers necessary.

#### 49. Grant or refusal of pipeline licence.

(1) Where a person makes an application in accordance with Section 48 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a location, the Minister—

(a) shall, if that person—

(i) is the registered holder of the petroleum development licence for that location; and

(ii) has complied with the conditions specified in the licence and with the provisions of this Act; and

(b) may, if that person is not the registered holder of the petroleum development licence for that location and the application has not been rejected under Section 48(6),

inform that person, by instrument served on him, that the Minister is prepared to grant a pipeline licence to him.

(2) Where—

(a) an application is made in accordance with Section 48 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a location, by a person who is the registered holder of the petroleum development licence for that location; and

(b) that person has not complied with the conditions specified in that licence or with the provisions of this Act,

the Minister may inform that person, by instrument served on him, that—

(c) he is prepared to grant a pipeline licence to that person; or

(d) he has refused to grant a pipeline licence to that person.

(3) The Minister shall not, under Subsection (2), refuse to grant a pipeline licence unless—

(a) he has, by instrument served on the person who made the application, given to that person not less than one month's notice of his intention to refuse to grant the pipeline licence; and

(b) he has served a copy of the instrument on such other persons as he thinks fit; and

(c) he has, in the instrument—

(i) given particulars of the reasons for his intention; or

(ii) specified a date on or before which the person who made the application or a person on whom a copy of the instrument is served may, by instrument served on the Director, submit any matters that he wishes the Minister to consider; and

- (d) he has taken into account any matters so submitted to him on or before the specified date by the person who made the application, or by a person on whom a copy of the instrument has been served.
- (4) Where an application is made in accordance with Section 48 for a pipeline licence in respect of the construction of a pipeline for the conveyance of petroleum recovered in a location by a person other than the registered holder of the petroleum development licence for that location, the Minister may, by instrument served on the applicant, refuse to grant a pipeline licence.
- (5) Where the Minister is required, or proposes, to serve on a person an instrument under Subsection (1) or (2)(c), he shall, by the instrument, inform that person that he will be required to lodge a security for compliance with the conditions to which the pipeline licence, if granted, will from time to time be subject, and with the provisions of this Act.
- (6) An instrument under Subsection (1) or (2)(c)—
- (a) shall specify the route to be followed by the pipeline; and
  - (b) shall contain a summary of the conditions to be specified in the pipeline licence to be granted; and
  - (c) shall contain a statement to the effect that the application will lapse if the applicant does not—
    - (i) make a request under Subsection (8); and
    - (ii) lodge with the Director the security referred to in the instrument.
- (7) The route to be specified in an instrument under Subsection (1) or (2)(c) shall be—
- (a) the route shown in the plan accompanying the application; or
  - (b) if the Minister is of the opinion that, for any reason, that route is not appropriate—a route that, in the opinion of the Minister, is appropriate.
- (8) A person who has been served with an instrument under Subsection (1) or (2)(c) may, within a period of three months after the date of service of the instrument on him—
- (a) by instrument served on the Director, request the Minister to grant to him the pipeline licence; and
  - (b) lodge with the Director the security referred to in the instrument served on him under that subsection.
- (9) Where a person who has been served with an instrument under Subsection (1) or (2)(c)—
- (a) has made a request under Subsection (8); and
  - (b) has lodged with the Director the security referred to in the instrument,
- within the period specified in Subsection (8), the Minister shall grant to that person a license to construct and operate a pipeline specified in the instrument.
- (10) Where a person who has been served with an instrument under Subsection (1) or (2)(c)—
- (a) has not made a request under Subsection (8); or
  - (b) has not lodged with the Director the security referred to in the instrument,
- within the period specified in Subsection (8), the application lapses at the end of that period.
- (11) Where a pipeline licence is not granted on an application, 90% of the fee under Section 48(4)(f) shall be refunded to the applicant.

**50. Rights conferred by pipeline licence.**

A pipeline licence, while it remains in force, authorizes the licensee, subject to this Act and in accordance with the conditions specified in the pipeline licence—

- (a) to construct—
  - (i) a pipeline of the design, construction, size and capacity specified in the licence, along the route specified in the licence; and
  - (ii) the pumping stations, tank stations and valve stations specified in the licence; and
- (b) to operate that pipeline and those pumping stations, tank stations and valve stations; and
- (c) to carry on all operations, to execute all works and to do all other things that are necessary for or incidental to the construction and operation of the pipeline and the pumping stations, tank stations and valve stations.

**51. Term of pipeline licence.**

(1) Subject to this Part and to any condition in the licence, a pipeline licence remains in force—

- (a) for a period of 25 years commencing on the day on which the licence takes effect; and
- (b) where the licence has been extended under Section 53—for such further period, not exceeding 20 years, as the pipeline licensee requires.

(2) Where the Minister is of the opinion that, having regard to the dates of expiration of the petroleum development licences that relate to the licence area from which the petroleum is, or is to be, conveyed by means of the pipeline it is not necessary for the pipeline licence to remain in force for the relevant period referred to in Subsection (1), the Minister may specify in the licence such lesser period as he thinks fit, and the pipeline licence shall remain in force for that lesser period so specified.

**52. Application for extension of pipeline licence.**

(1) A pipeline licensee may, once only in respect of a pipeline licence, make an application to the Minister for the extension of that licence.

- (2) An application for the extension of a pipeline licence—
- (a) shall be in an approved form; and
  - (b) shall be made in an approved manner not later than six months before the day on which the pipeline licence is due to expire; and
  - (c) shall be accompanied by a fee of K2 000.00; and
  - (d) shall specify the period, not exceeding 20 years, for which the extension is sought.

**53. Grant or refusal of extension of pipeline licence.**

(1) Where a pipeline licensee makes an application for the extension of the pipeline licence under Section 52, the Minister—

- (a) shall, if the pipeline licensee has complied with the conditions specified in the pipeline licence and with the provisions of this Act; or
- (b) may, if the pipeline licensee has not complied with the conditions specified in the licence and with the provisions of this Act, and the Minister is satisfied



that, although the pipeline licensee has not so complied, special circumstances exist that justify the granting of the extension of the pipeline licence, inform the licensee, by instrument served on the licensee—

- (c) that he is prepared to grant to the licensee the extension of the pipeline licence; and
- (d) that the licensee will be required to lodge a security for compliance with the conditions to be specified in the pipeline licence, if the extension is granted, and with the provisions of this Act.

(2) The Minister shall not, under Subsection (1), refuse to grant a pipeline licence to a licensee unless—

- (a) he has, by instrument served on the licensee, given not less than one month's notice of his intention to refuse to grant the pipeline licence; and
- (b) he has served a copy of the instrument on such other persons as he thinks fit; and
- (c) he has, in the instrument—
  - (i) given particulars of the reasons for his intention to refuse; and
  - (ii) specified a date on or before which the licensee or a person on whom a copy of the instrument has been served may, by instrument served on the Minister, submit any matters that he wishes the Minister to consider; and
- (d) he has taken into account any matters so submitted to him, on or before the specified date, by the licensee, or by a person on whom a copy of the instrument has been served.

(3) Where an application for the extension of a pipeline licence is made under Section 52 and the pipeline licence otherwise expires before the Minister grants or refuses to grant the extension of the pipeline licence, the pipeline licence shall be deemed to continue in force in all respects until the Minister refuses to grant the extension of the pipeline licence.

**54. Conditions of pipeline licence.**

A pipeline licence may be granted subject to such conditions as the Minister thinks fit and specifies in the licence.

**55. Variation of pipeline licence on application by licensee.**

(1) A pipeline licensee may, at any time, make an application to the Minister for a variation of the pipeline licence.

(2) An application under this section—

- (a) shall be in an approved form; and
- (b) shall be made in an approved manner; and
- (c) shall be accompanied by particulars of the proposed variation; and
- (d) shall specify the reasons for the proposed variation; and
- (e) shall be accompanied by the prescribed fee.

(3) The Minister may require the applicant to furnish such further information in connexion with his application as the Minister considers necessary.

(4) After considering any matters submitted to him under this section, the Minister may—

- (a) vary the pipeline licence to such an extent as he thinks fit; or
- (b) refuse to vary the pipeline licence.

**56. Variation of pipeline licence by Minister.**

(1) The Minister may, if in his opinion it is necessary—

- (a) for the protection of health and safety; or
- (b) to avoid obstruction of, or interference with, the rights of other persons,

by instrument served on a pipeline licensee, direct the licensee to make such changes in the design, construction and route or position of the pipeline, pumping station, tank station or valve station to which the pipeline licence relates as are specified in the instrument, within the period specified in the instrument.

(2) A person to whom a direction is given under Subsection (1) who fails or refuses to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

Default penalty: A fine not exceeding K5 000.00.

(3) Where the Minister gives a direction under Subsection (1) and the person to whom the direction is given complies with the direction, the Minister may grant to that person such sum as he considers reasonable in the circumstances.

(4) Where the Minister gives a direction under Subsection (1), any pipeline licence affected by the direction shall be deemed to be varied to the extent reasonably necessary to enable the direction to be complied with.

**57. Common carrier.**

The Minister may by instrument served on a pipeline licensee, direct the pipeline licensee to be a common carrier of petroleum in respect of the pipeline and the pipeline licensee is then a common carrier of petroleum in respect of the pipeline.

**58. Ceasing to operate pipeline.**

(1) Except with the written consent of the Minister, and subject to compliance with such conditions (if any) as are specified in the instrument of consent, a pipeline licensee who ceases to operate the pipeline is guilty of an offence.

Penalty: A fine not exceeding K50 000.00.

(2) It is not an offence against Subsection (1) if the failure to operate the pipeline—

- (a) was in the ordinary course of the operation of the pipeline; or
- (b) was for the purpose of repairing or maintaining the pipeline; or
- (c) was in an emergency in which there was a likelihood of loss or injury; or
- (d) was as a result of an industrial strike or picket.

## Division 6.—Registration of Instruments.

## 59. Interpretation of Division 6.

In this Division—

“licence” includes a pipeline licence;

“licensee” includes the holder of a pipeline licence.

## 60. Register to be kept.

(1) The Minister shall cause to be kept a Register of applications, grants, extensions, transfers and dealings in licences.

(2) The Register shall contain such details as are prescribed or as the Minister directs.

(3) A copy of any entry in the Register may be obtained on payment of the prescribed fee.

## 61. Approval and registration of transfers.

(1) Subject to this section, the Minister may approve the transfer of a licence from one person to another and such approval may be subject to such conditions (if any) as the Minister thinks fit.

(2) In addition to any other condition that the Minister may impose under Subsection (1), the Minister may require the transferee to lodge with him such security as the Minister thinks fit for the transferee's compliance with the conditions to which the licence is from time to time subject.

(3) The transfer of a licence shall have no effect until it is approved and registered in accordance with this section.

(4) Where the Minister approves the transfer of a licence from a company to a company that is a related corporation within the meaning of the *Companies Act*, he shall impose no new conditions on the licence as a condition of that approval.

(5) A registered holder of a licence who desires to transfer the licence to another person, or to himself and another person jointly, may lodge with the Director an application for approval of the transfer of the licence.

(6) The application shall be accompanied by an instrument of transfer of the licence duly executed by the transferor and transferee, together with a copy of that instrument of transfer.

(7) If the Minister approves the application, the Director shall—

(a) immediately endorse on the instrument of transfer and on the copy a memorandum of approval; and

(b) on payment of the prescribed fee enter in the Register a memorandum of the transfer and the name of the transferee.

(8) The transfer shall be deemed to be registered as soon as a memorandum of the transfer and the name of the transferee has been entered in the Register and, on that memorandum being so entered, the transferee becomes the registered holder of the licence to which the instrument of transfer relates.

(9) The copy of the instrument of transfer endorsed with the memorandum of approval shall be retained by the Director and is subject to inspection in accordance with this Division.

(10) The instrument of transfer endorsed with the memorandum of approval shall be returned to the person who lodged the application.

(11) The Minister shall not approve a transfer of a licence unless it is an absolute transfer of the whole of the transferor's interest in the licence.

**62. Entries in Register of devolution of title.**

(1) A person on whom the rights of a registered holder of a licence have devolved by operation of law may apply in writing to the Director to have his name entered in the Register as the holder of the licence.

(2) The Director shall, if he is satisfied that the rights of the holder have devolved on the applicant by operation of law, and on payment of the prescribed fee, enter the name of the applicant in the Register as the holder of the licence and, on that entry being so made, the applicant becomes the registered holder of the licence.

**63. Interests not to be created, etc., except by instrument.**

A legal or equitable interest in or affecting an existing or future licence is not capable of being created, assigned, affected or dealt with, whether directly or indirectly, except by an instrument.

**64. Approval of instruments creating, etc., interests.**

(1) This section applies to an instrument by which a legal or equitable interest in, or affecting, an existing or future licence is or may be created, assigned, affected or dealt with, whether directly or indirectly, not being an instrument of transfer to which Section 61 applies.

(2) An instrument to which this section applies is of no force or effect until—

(a) the instrument has been approved by the Minister either unconditionally or subject to such conditions as he thinks fit; and

(b) an entry has been made in the Register by the Director in accordance with Subsection (5).

(3) A party to an instrument to which this section applies, or a person having an interest in or in relation to a licence by reason of such an instrument, may lodge with the Director an application for approval of the instrument.

(4) An application under Subsection (3) shall be accompanied by the instrument and by a copy of the instrument.

(5) If the Minister approves the application, the Director shall, on payment of the prescribed fee, immediately endorse on the original instrument and the copy of the instrument a memorandum of approval.

(6) The copy of the instrument endorsed with the memorandum of approval shall be retained in the Register by the Director and is subject to inspection in accordance with this Division.

(7) The original instrument endorsed with the memorandum of approval shall be returned to the person who lodged the application for approval.

(8) If the Minister refuses the application, the Director shall cause a notation of the refusal to be made in the Register.

**65. True consideration to be shown.**

A party to a transfer referred to in Section 61 or to an instrument to which Section 64 applies who, with intent to defraud, executes the transfer or instrument if the transfer or instrument does not fully and truly set forth the true consideration for the transfer or instrument is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**66. Minister not concerned with certain matters.**

The Minister or a person acting under his direction or authority shall not be concerned with the effect in law of any instrument lodged in accordance with this Division, nor does the approval of such an instrument give to it any force, effect or validity that it would not have had if this Division had not been enacted.

**67. Power of Minister to require information as to proposed dealings.**

(1) The Minister or Director may require the person lodging an instrument for approval under this Division to furnish to him such written information concerning the instrument, or the transaction to which the instrument relates, as the Minister or Director thinks fit.

(2) A person who, when required under Subsection (1) to furnish information, furnishes information that is false or misleading in a material particular is guilty of an offence.

Penalty: A fine not exceeding K2 000.00.

**68. Production and inspection of documents.**

(1) The Minister or Director may require any person to produce to him, or to make available for inspection by him, any document in the possession or under the control of that person and relating—

- (a) to an instrument lodged for approval under this Division; or
- (b) to the transaction to which such an instrument relates.

(2) A person who refuses or fails within a reasonable time to comply with a requirement under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K2 000.00.

**69. Inspection of Register and documents.**

(1) The Register shall, at all reasonable times, be open for inspection by any person on payment of the prescribed fee.

(2) Any person may take copies of any licence or entry in the Register on payment of the prescribed fee.

**70. Evidentiary provisions.**

(1) The Register shall be received by all courts as evidence of all matters required or authorized by this Division to be entered in the Register.

(2) The Director may, on payment of the prescribed fee, supply copies of or extracts from the Register certified by writing under his hand, and a document purporting to be a copy or extract so certified is admissible in evidence in all courts and proceedings without further proof or production of the original.

(3) The Director may, on payment of the prescribed fee, by instrument under his hand, certify that an entry, matter or thing required or permitted by or under this Division to be made or done or not to be made or done has or has not, as the case may be, been made or done and a document purporting to be such a certificate is evidence in all courts and proceedings of the statements contained in the certificate.

#### 71. Register may be rectified.

Where the Minister is satisfied that there has been a mistake made in, or that some matter has been incorrectly entered in, the Register, he shall rectify the Register by correcting that mistake or incorrect entry.

#### 72. Minister or Director not liable for certain actions.

The Minister, the Director, or a person acting under the direction or authority of the Minister or the Director shall not be liable to an action, suit or proceeding for or in respect of an act or matter done or omitted to be done in good faith in the exercise or purported exercise of any power or authority conferred by this Division.

#### 73. Offences.

A person who wilfully—

- (a) makes, causes to be made or concurs in making, a false entry in the Register; or
- (b) produces or tenders in evidence a document falsely purporting to be a copy of or extract from an entry in the Register or of or from an instrument lodged with the Minister under this Division,

is guilty of an offence.

Penalty: Imprisonment for a term not exceeding two years.

#### *Division 7.—Rights in Respect of Land and Property.*

#### 74. Rights of licensees in respect of land and property.

(1) Subject to this Division, the rights conferred on a licensee by Section 21 or 38 are, by virtue of this Act, exercisable on any land within the licence area and, for the purpose of exercising those rights, a licensee, by himself or his agents or workmen, may to the extent reasonably necessary for the licensee's operations or proposed operations in the licence area—

- (a) enter on any land in the licence area; and
- (b) subject to Sections 80 and 81, occupy any land in the licence area that is from time to time required for—
  - (i) effectively carrying on the operations he is entitled under the licence to carry on; and
  - (ii) adequately protecting those operations and the improvements and equipment on or under the land; and
- (c) erect buildings on land occupied under Paragraph (b) and at any time remove any building so erected and, subject to Section 81, remove any other building from land so occupied; and
- (d) bring any machinery or other equipment into the licence area and erect or install it on land occupied under Paragraph (b) or in any building erected

under Paragraph (c), and at any time remove any such machinery or equipment; and

- (e) request the Minister to acquire any land required by the licensee for a purpose specified in Section 83; and
- (f) subject to the *Water Resources Act*, take and divert water from any lake, stream or watercourse in the licence area; and
- (g) construct in the licence area roads, airstrips or helicopter pads; and
- (h) cut and use the timber in the licence area (other than timber forming part of any improvements) for building or construction work within the licence area; and
- (i) remove any stone, clay or gravel in the licence area (other than that forming part of any improvements) for or in connexion with building or construction work within the licence area.

(2) For the purposes of Section 20 of the *Water Resources Act*, the rights conferred under this Act on a licensee shall be deemed to be rights in land to which that section applies.

(3) For the purposes of Section 2 of the *Forestry Act*, the rights conferred under this Act on a licensee shall be deemed to be rights under an Act relating to mining.

#### 75. Rights of pipeline licensees in respect of land and property.

(1) Subject to this Division, the rights conferred on a pipeline licensee by Section 50 are, by virtue of this Act, exercisable on any land—

- (a) that is occupied or to be occupied by the pipeline, pumping stations, tank stations and valve stations specified in the pipeline licence; or
- (b) that is at a distance not exceeding 10 m on either side of the pipeline,

and within that area of land and for the purpose of exercising those rights, the pipeline licensee, by himself or his agents or workmen, may to the extent reasonably necessary for the licensee's operations or proposed operations in that area—

- (c) enter on any land; and
- (d) subject to Sections 80 and 81, occupy with his pipeline, pumping stations, tank stations and valve stations land substantially along the route and on the sites specified in the pipeline licence; and
- (e) erect buildings on land occupied under Paragraph (d) and at any time remove any building so erected and, subject to Section 81 remove any other building from any land so occupied; and
- (f) bring any machinery or equipment on land occupied under Paragraph (d) and erect or install it on such land or in any building erected under Paragraph (e), and at any time remove any such machinery or equipment; and
- (g) request the Minister to acquire any land required by the pipeline licensee for a purpose specified in Section 83; and
- (h) construct roads to give adequate access to the pipeline; and
- (i) cut and use the timber (other than timber forming part of any improvements) for building or construction work related to the pipeline, pumping stations, tank stations or valve stations; and

(j) remove any stone, clay or gravel (other than that forming part of any improvements) for or in connexion with building or construction work related to the pipeline, pumping stations, tank stations or valve stations.

(2) For the purposes of Section 2 of the *Forestry Act*, the rights conferred under this Act on a pipeline licensee shall be deemed to be rights under an Act relating to mining.

**76. Rights of landowners.**

The owner, occupier or other person having an interest in any private land in a licence area may continue in use, occupation and enjoyment of the land, with the exception of any part reasonably required from time to time by the licensee for the exercise of his rights under the licence.

**77. Interference with other rights.**

(1) A person carrying on operations under a licence, pipeline licence or instrument of consent under Section 109, shall carry on those operations in a manner that does not interfere with the existing use of the land to any greater extent than is reasonably necessary for the exercise of the rights, and performance of the duties, of that person.

(2) Without limiting the generality of Subsection (1), a person carrying on operations under a licence, pipeline licence or instrument of consent under Section 109, shall not take any action that in any way interferes with—

(a) fishing; or

(b) navigation; or

(c) any other operation being lawfully carried on by way of—

(i) prospecting for, recovery of or conveyance of petroleum, helium, minerals or gold; or

(ii) construction of a pipeline, pumping station, tank station or valve station,

unless he gives prior written notice to the Director of the expected nature and duration of such interference.

(3) A person who fails to comply with the provisions of this section is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**78. Responsibility to repair damage.**

(1) Subject to Sections 74 and 75, a licensee or a pipeline licensee shall, as soon as and to the extent practicable having regard to his operations, repair any damage—

(a) to any improvements; or

(b) to any land capable of being used for any agricultural purposes; or

(c) to the water supply to such improvements or land,

resulting from his operations or from the flow of petroleum, salt water or waste from any of those operations.

(2) Where a licensee or pipeline licensee fails to comply with Subsection (1), the Minister may repair the damage, and any costs or expenses incurred are a debt due from the licensee or pipeline licensee to the State.



**79. Additional rights of entry.**

(1) Where, in the opinion of the Minister, it is necessary for the applicant for a pipeline licence, or a person intending to apply for a pipeline licence—

- (a) to enter on any land to survey the proposed route of a pipeline or the proposed site of a pumping station, tank station or valve station; or
- (b) to conduct tests or to obtain information in relation to any such route or site,

the Minister may, on application by that person and subject to Section 81, authorize that person to enter on the land for that purpose.

(2) Where, in the opinion of the Minister, it is necessary for the effective exercise of a licensee's rights or the performance of his duties under this Act for the licensee to enter on any land not held by him under a licence in order to obtain geological information for use in relation to his licence area, the Minister may, on application by the licensee and subject to Section 81, authorize that licensee to enter on that land and there carry out such acts as are necessary to obtain that information.

(3) An authorization under Subsection (2) shall not entitle a licensee to prospect for petroleum by the drilling of wells on the land.

(4) Where, in the opinion of the Minister, it is necessary for the effective exercise of a pipeline licensee's rights or the performance of his duties under this Act for the pipeline licensee to enter on any land not held by him under a licence or occupied by him under a pipeline licence in order—

- (a) to obtain access to any part of the pipeline, pumping stations, tank stations or valve stations specified in the pipeline licence; or
- (b) to carry any materials for the construction of the pipeline, pumping stations, tank stations or valve stations to the route or site specified in the pipeline licence,

the Minister may, on application by the pipeline licensee and subject to Section 81 authorize the pipeline licensee to enter on that land for that purpose.

**80. Land occupied to be surveyed.**

A licensee shall cause to be surveyed and, if so required by the Director, securely fenced, any part of the land in the licence area which the licensee requires in order effectively to carry on drilling operations.

**81. Compensation.**

(1) A licensee or pipeline licensee shall be liable to pay compensation in accordance with this section to the owners and occupiers of, and any persons interested in, any private land in relation to their several interests, in respect of the entry on or occupation of the land by the licensee or pipeline licensee under this Division.

(2) Subject to this section, compensation shall be paid for—

- (a) the deprivation of the use and enjoyment of the surface of the land or any part of it or of any rights customarily associated with it, except where there has been a reservation in favour of the State of the right to such use and enjoyment; and
- (b) damage—
  - (i) to the surface of the land or any part of it, or any improvements on it;
  - or

(ii) to any trees, fish or animals,

caused by the carrying on of operations by the licensee or pipeline licensee; and

(c) severance of the land from other land of any owner, occupier or person interested in the land; and

(d) rights of way and easements; and

(e) any other damage consequential on the licensee's or pipeline licensee's use or occupation of the land.

(3) If any private land adjoining or in the vicinity of land comprised in any licence or occupied under any pipeline licence or any improvements on the land is or are damaged or depreciated in value—

(a) by any operations carried on by or on behalf of a licensee or pipeline licensee; or

(b) by reason of any right of way acquired by the licensee or pipeline licensee, the owners and occupiers of, and any persons interested in, that private land or those improvements shall be entitled in respect of their several interests to compensation for all loss and damage sustained under Paragraph (a) or (b) and the amount of compensation shall be ascertained in accordance with this section.

(4) A licensee or pipeline licensee may agree with any person entitled to compensation under this section as to the amount of compensation.

(5) An agreement under Subsection (4) shall not be valid unless it is in writing and signed by the parties to it, or their agents, and is lodged with the Director.

(6) If the parties are unable to agree on the amount of compensation to be paid, either party may apply to the Warden's Court held nearest to the land the subject of the application to have the amount determined by that Court.

(7) In an action under Subsection (6), if the Warden's Court considers it impracticable or inexpedient to assess the amount of compensation to be paid in full satisfaction for the damage sustained by the claimant the Court may, on the application of a party or of its own motion, give judgement or make a declaration as to the compensation payable in respect of any specified period and in respect of the whole or part of the total claim for compensation.

(8) The Warden's Court before which proceedings in relation to compensation have been commenced may, at any stage of those proceedings, make an order against the person from whom compensation is sought, restricting that person from commencing or, as the case may be, continuing any operations under this Act until he has given such security as the Court thinks fit for payment of any compensation for which he may be or, become liable.

(9) If, after the Warden's Court has determined any amount of compensation under this section, it is proved that further loss or damage, not being a loss or damage in respect of which compensation has already been determined, has been sustained, the Warden's Court may determine the further loss or damage and order that further compensation be paid by the licensee or pipeline licensee to the person entitled to that further compensation.

(10) Where a Warden's Court has made an order for compensation or further compensation under this Division, the amount of compensation stated in that order is an amount payable by the licensee or pipeline licensee for the purposes of Section 98(1)(d).

(11) In determining the amount of compensation payable under this Act—

(a) the Warden's Court shall—

(i) take into consideration the amount of any compensation which the owners or occupiers of, or the persons interested in, the land or any of

them or their predecessors in title have or has already received for the damage or loss for which compensation is being determined; and

(ii) deduct that amount from the amount to which they or any of them respectively would be otherwise entitled; and

(b) no allowance shall be made for any petroleum, helium, minerals or gold known or supposed to be in, on or under the land.

**82. Warden's Court.**

(1) Every Warden's Court shall have jurisdiction to hear and determine all actions arising under or out of this Act and may apply any fine or penalty imposed by this Act in respect of any offence other than an indictable offence.

(2) In exercising the jurisdiction conferred by Subsection (1), a Warden's Court and the Warden and other officers of that Court—

(a) shall follow the procedure provided for in the *Mining Act*; and

(b) shall have powers, functions, duties and responsibilities in relation to petroleum and helium and matters arising under this Act similar to the powers, functions, duties and responsibilities set out in the *Mining Act* in relation to minerals and gold and matters arising under that Act,

and there shall be—

(c) the same rights of appeal from the decisions of a Warden's Court or a Warden; and

(d) the same methods of review of questions either of fact or law,

as are provided for in the *Mining Act*.

**83. Acquisition of land.**

(1) For the purposes of Section 53(1) (*protection from unjust deprivation of property*) of the Constitution and the *Land Act*, the following are declared to be public purposes, whether they are pursued by a licensee, a pipeline licensee or the State :—

(a) the conducting of geological surveys, seismic tests, test drilling and other prospecting operations for petroleum in a licence area; and

(b) the drilling for and the recovery of petroleum in a licence area; and

(c) the storage of petroleum in connexion with the operations of a licensee or pipeline licensee; and

(d) the processing of petroleum by a licensee; and

(e) the conveyance of petroleum by a licensee or pipeline licensee, whether by pipeline, land transport, sea transport or air transport, including the pumping, loading, unloading and discharging of petroleum; and

(f) the accommodation of the officers, agents and employees of a licensee or pipeline licensee or any contractor or sub-contractor of a licensee or pipeline licensee in connexion with the prospecting for, recovery or conveyance of petroleum; and

(g) the disposal of waste material from operations for, or associated with prospecting for, recovery or conveyance of petroleum; and

(h) the establishing of a town to service an industry for the recovery of petroleum including civic, cultural and social facilities in the town.

(2) Notwithstanding any provision of the *Land Act* in determining the compensation payable for land compulsorily acquired for a purpose specified in Subsection (1)—

- (a) no allowance shall be made for any petroleum, helium, minerals or gold known or supposed to be in, on or under the land acquired; and
- (b) no compensation shall be payable in respect of improvements made to the land by a licensee or pipeline licensee.

(3) Whenever it is proved, to the satisfaction of a court of competent jurisdiction, under the *Land Act* that damage has been sustained by a claimant by reason of the severance of the land acquired from other adjoining land of the claimant, or land in which he is interested, the court may order that such adjoining land or some portion of it shall also be acquired.

(4) Where land has been acquired for a purpose specified in Subsection (1) and has been made available to a licensee or pipeline licensee for the purposes of his operations under that licence or pipeline licence, the amount of any compensation that the State has paid in respect of that land is a debt due and payable by the licensee or pipeline licensee, as the case may be, to the State.

(5) An amount payable under Subsection (4), on written demand being served on the licensee or pipeline licensee, is an amount payable by him under this Act for the purposes of Section 98(1)(d).

**84. Determination of customary land.**

Where for the purposes of this Division it is necessary to determine the rightful owners or occupiers of, or persons having an interest in, any customary land, or any improvements on it other than in circumstances where Section 74 of the *Land Act* applies, the determination may be made under the provisions of the *Land Disputes Settlement Act* and for the purposes, and within the meaning, of that Act, there shall be deemed to be a dispute between such persons or groups as the court, within the meaning of that Act, may direct.

**85. Trespass on land held under a licence.**

(1) A person (including the owner or occupier of, or any person interested in, private land) shall not enter on, occupy or interfere with—

- (a) any land in a licence area which is being used by the licensee for or in connexion with prospecting operations or operations for the recovery of petroleum; or
- (b) any pipeline, pumping station, tank station or valve station,

unless authorized or permitted by or under this Act or any other law of the State, or by the licensee or pipeline licensee.

(2) Every entry, occupation or interference in contravention of Subsection (1) shall, in addition to constituting an offence under this Act, be deemed to be a trespass.

(3) A licensee or pipeline licensee may proceed in a Warden's Court for trespass under this section and for damages in respect of the trespass.

(4) This section shall not be construed as depriving a licensee or pipeline licensee of any other right he might have under a law in force in the country in respect of his occupation and use of the land.

## Division 8.—General.

## 86. Date of effect of licences, etc.

(1) A licence or pipeline licence takes effect from and including the day specified for the purpose in the licence.

(2) A variation of a licence or pipeline licence takes effect from and including the day on which notice of the variation is published in the National Gazette.

## 87. Work practices for licensee.

(1) A licensee must—

- (a) carry out all petroleum exploration operations and operations for the recovery of petroleum in the licence area in a proper and workman like manner and in accordance with good oilfield practice; and
- (b) secure the safety, health and welfare of persons engaged in those operations in or about the licence area; and
- (c) act in accordance with—
  - (i) the regulations, and any directions given under Section 93; and
  - (ii) any direction given, restriction imposed or requirement made by an inspector under this Act.

(2) In particular, and without limiting the generality of Subsection (1), a licensee must—

- (a) control the flow and prevent the waste or escape in the licence area of petroleum or water; and
  - (b) prevent the escape in the licence area of any mixture of water or drilling fluid and petroleum or any other matter; and
  - (c) prevent damage to petroleum-bearing strata in an area in respect of which the licence is not in force; and
  - (d) keep separate—
    - (i) each petroleum pool discovered in the licence area; and
    - (ii) such of the sources of water (if any) discovered in that area, as the Minister, by instrument served on the licensee, directs; and
  - (e) prevent water or any other matter entering any petroleum pool through wells in the licence area except when required by, and in accordance with, good oilfield practice; and
  - (f) prevent the pollution of any water-well, spring, stream, river, lake, reservoir, estuary, harbour or area of sea by the escape of petroleum, salt water, drilling fluid, chemical additive or any other waste product or effluent; and
  - (g) furnish to the Director, prior to the drilling of any well, a detailed report on the technique to be employed, the material to be used and the safety measures to be employed, in the drilling of the well.
- (3) This section shall not prevent a licensee from flaring natural gas—
- (a) where the written consent of the Director has been obtained; or
  - (b) where, in an emergency, flaring is required—
    - (i) to safeguard the health and safety of persons in the licence area; or

(ii) to prevent damage to the property of any person in the licence area.

(4) A licensee must furnish to the Director such notice as is prescribed of his intention to abandon any well, and the closure or plugging of any well must be carried out in the prescribed manner.

**88. Work practices for pipeline licensee.**

(1) A pipeline licensee must operate the pipeline in a proper and workmanlike manner and must secure the safety, health and welfare of persons engaged in operations in connexion with the pipeline.

(2) In particular and without limiting the generality of Subsection (1), a pipeline licensee must prevent the waste or escape of petroleum or water from the pipeline or from any pumping station, tank station or valve station.

**89. Work practices for holders of instruments of consent.**

A person who is the holder of an instrument of consent under Section 109 must—

(a) carry out all petroleum exploration operations in the area in respect of which the instrument of consent is in force in a proper and workmanlike manner and in accordance with good oilfield practice; and

(b) secure the safety, health and welfare of persons engaged in those operations in or about that area.

**90. Penalty for breach of Section 87, 88, or 89.**

(1) A licensee, pipeline licensee or holder of an instrument who contravenes or fails to comply with a requirement of Section 87, 88 or 89, as the case may be, is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

(2) It is a defence to a charge for an offence under this section, if the person charged proves that he took all reasonable steps to comply with the requirements of the relevant section applicable to him.

**91. Maintenance, etc., of property.**

(1) A licensee shall—

(a) maintain in good condition and shall keep in repair all structures, equipment and other property in the licence area and used in connexion with the operations in which he is engaged; and

(b) remove from the licence area all structures, equipment and other property not being, or intended to be, so used.

(2) A pipeline licensee shall—

(a) maintain in good condition and repair all structures, equipment and other property in the area in which the pipeline is constructed and used in connexion with the operations in which he is engaged; and

(b) remove from the area all structures, equipment and other property not being, or intended to be, so used.

**92. Drilling near boundaries.**

(1) A licensee shall not make a well any part of which is less than 300 m from a boundary of a licence area, except with the written consent of the Director and in accordance with such conditions (if any) as are specified in the instrument of consent.

(2) Where a licensee fails to comply Subsection (1), the Director may, by instrument served on the licensee, direct him—

- (a) to plug the well; or
- (b) to close off the well; or
- (c) to comply with the directions relating to the making or maintenance of the well specified in the instrument,

within the period specified in the instrument and the licensee shall comply with the direction within that period.

**93. Directions.**

(1) The Minister, the Director or an inspector may, by instrument served on a person, give to that person such directions as are prescribed.

(2) A direction under Subsection (1) has effect and shall be complied with notwithstanding anything in the regulations and, to the extent to which the regulations are inconsistent with the directions, the person to whom the direction is given is not obliged to comply with the regulations.

(3) A person who refuses or fails to comply with a direction given under Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K2 000.00.

**94. Compliance with directions.**

(1) Where a person fails to comply with a direction given to him under this Part or under the regulations, the Minister may do all or any of the things required by the directions to be done.

(2) Any costs or expenses incurred by the Minister under Subsection (1) in relation to a direction are a debt due by the person to whom the direction was given to the State.

(3) It is a defence to a charge of failing to comply with a direction given under this Part or under the regulations if the person charged proves that he took all reasonable steps to comply with the direction.

**95. Exemptions, variations, etc.**

(1) Where—

- (a) under this Part, a licence is deemed to continue in force; or
- (b) a licence is varied under Section 36; or
- (c) a licensee enters into an agreement under Section 43 or a direction is given to the licensee under that section; or
- (d) a licence is partly cancelled, partly determined or surrendered as to one or more, but not all of the blocks in respect of which it is in force; or
- (e) the term of a petroleum prospecting licence is extended under Section 25 or 26; or

(f) a licensee or pipeline licensee, by instrument served on the Director, applies—

- (i) for a variation or suspension of the licence or pipeline licence; or
- (ii) for exemption from compliance with any of the conditions specified in the licence or pipeline licence; or

(g) under this Part or the regulations the Minister gives a direction or consent to a licensee or pipeline licensee; or

(b) a pipeline licence is varied under Section 56; or

(i) a direction is given to the pipeline licensee under Section 57,

the Minister may, at any time, by instrument served on the licensee—

(j) vary or suspend; or

(k) exempt the licensee or the pipeline licensee from compliance with, any of the conditions specified in the licence or pipeline licence, as the case may be, on such conditions (if any) as the Minister determines and specifies in the instrument.

(2) Subsection (1) does not authorize the making of an instrument to the extent—

(a) that it would affect the term of a licence or pipeline licence; or

(b) in the case of an instrument relating to an application referred to in Subsection (1)(f)]—that it would not be in accordance with the application, or the application as varied by agreement, before the making of the instrument.

#### 96. Prevention from carrying on prospecting operations.

(1) A petroleum prospecting licensee who has been, or is being, prevented from carrying on in the licence area any operations authorized by the licence, may make an application to the Minister for a direction under this Section.

(2) An application under Subsection (1)—

(a) shall be made not more than one month after the date of commencement of the circumstances causing the prevention, or such longer period as the Minister may allow, but in any event before the licence concerned ceases to have effect; and

(b) shall specify the operations that the licensee has been or is being prevented from carrying on; and

(c) shall set out the circumstances by reason of which the licensee has been or is being prevented from carrying on those operations; and

(d) may set out any other matters that the licensee wishes the Minister to consider.

(3) Where a licensee has made an application under Subsection (1), the Minister shall, after considering a report from the Board, by instrument served on the licensee—

(a) if he is satisfied that the licensee has been by reason of circumstances beyond the control of the licensee, prevented from carrying on in the licence area, during any period during which the licence was in force, any of the operations specified in the application—direct that the term of the licence be extended for the period specified in the instrument being a period not greater than the period for which the licensee was prevented from carrying on operations, subject to such conditions (if any) as the Minister determines and specifies in the instrument; or



(b) in any other case—refuse the application.

(4) Where the Minister makes a direction under Subsection (3)(a), the licence continues in force for the period directed.

(5) Where a licensee has made an application under Subsection (1) and an instrument under Subsection (3) has not been served on the licensee before the licence would, but for this subsection, cease to have effect—

- (a) any application under Section 25 or 26 for the extension of the licence lapses; and
- (b) the licensee may, notwithstanding anything contained in that section, make an application or further application under that section for the extension of the licence—
  - (i) if the Minister, by instrument under Subsection (3) directs that the term of the licence be extended for a specified period—within a period of one month after the expiration of the specified period; or
  - (ii) if the Minister, by instrument under Subsection (3), refuses the application under Subsection (1)—within a period of one month after the day on which the instrument is served on the licensee; and
- (c) the licence continues in force by reason of this subsection until the expiration of that period of one month, or until an application is made under Section 25 or 26 for the extension of the licence, whichever first occurs.

**97. Surrender of licences, etc.**

(1) In this section, “the area to which the surrender relates” means—

- (a) in relation to a surrender of a licence—the area constituted by the blocks in relation to which the licence is proposed to be surrendered; and
- (b) in relation to a surrender of a pipeline licence—the area in which the pipeline or part of the pipeline, in relation to which the pipeline licence is proposed to be surrendered, is constructed.

(2) A licensee or a pipeline licensee may, at any time, by written notice served on the Director, apply to the Minister for consent to surrender the licence or pipeline licence—

- (a) in the case of a licence—as to all or any of the blocks in respect of which it is in force; and
- (b) in the case of a pipeline licence—as to the whole or part of the pipeline in respect of which it is in force.

(3) Subject to Subsection (5), the Minister shall not give his consent to a surrender of a licence or pipeline licence under Subsection (2) unless the licensee or pipeline licensee, as the case may be—

- (a) has paid all fees and amounts payable by him under this Act or has made arrangements that are satisfactory to the Minister for the payment of those fees and amounts; and
- (b) has, subject to Subsection (4), complied with the conditions specified in the licence or pipeline licence and with the provisions of this Part, and
- (c) has to the satisfaction of the Minister—
  - (i) removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person; or
  - (ii) has made arrangements with respect to that property; and

- (d) has, to the satisfaction of the Minister, plugged or closed off all wells made in that area by any person engaged or concerned in the operations authorized by the licence; and
- (e) has made provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area.

(4) For the purpose of Subsection (3)(b), the holder of a petroleum prospecting licence who has complied with the conditions referred to in Section 27(2) shall not be taken to have failed to comply with the conditions specified in the licence for the reason only that he has failed to complete any work or expend any amount referred to, or specified, in the licence so far as it relates to any period subsequent to the date on which an application under this section, to which the Minister subsequently consents, is made.

(5) Where a licensee or pipeline licensee has not complied with the conditions specified in the licence or pipeline licence, as the case may be, and with the provisions of this Act, the Minister may give his consent to a surrender of the licence or pipeline licence under Subsection (2) if he is satisfied that, although the licensee or pipeline licensee has not so complied, special circumstances exist that justify the giving of consent to the surrender.

(6) Where the Minister consents to an application under Subsection (2), the applicant may, by instrument served on the Director, surrender the licence or pipeline licence, as the case may be.

#### 98. Cancellation of licences, etc.

(1) Where a licensee or a pipeline licensee—

- (a) has not, in the opinion of the Minister, complied with a condition specified in the licence or pipeline licence, as the case may be; or
- (b) has not, in the opinion of the Minister, complied with a direction given to him under this Part by the Minister, the Director or an inspector; or
- (c) has not complied with a provision of this Act; or
- (d) has not paid any amount payable by him under this Act within a period of three months after the date on which the amount became payable,

the Minister may, by instrument served on the licensee or pipeline licensee, as the case may be—

- (e) in the case of a licence—cancel the licence as to all or any of the blocks in respect of which it is in force; or
- (f) in the case of a pipeline licence—cancel the pipeline licence as to the whole or a part of the pipeline in respect of which it is in force.

(2) The Minister shall not, under Subsection (1), cancel a licence or a pipeline licence as to all or any of the blocks, or as to the whole or part of the pipeline unless—

- (a) he has, by instrument served on the licensee or pipeline licensee, as the case may be, given not less than one month's notice of his intention to cancel the licence or pipeline licence; and
- (b) he has caused a copy of the instrument to be served on such other persons (if any) as he thinks fit; and
- (c) he has, in the instrument, specified a date on or before which written submissions may be served on the Minister in connexion with the proposed cancellation; and

(d) after taking into account—

- (i) any action taken by the licensee or pipeline licensee, as the case may be, to remove that ground or to prevent the recurrence of similar grounds; and
- (ii) any matters so submitted to him on or before the specified date; and
- (iii) a report on those matters from the Board,

he considers that special circumstances exist that justify a decision to cancel the licence or pipeline licence.

(3) The cancellation of a licence or pipeline licence by the Minister in pursuance of this section shall not release the licensee from any liability in respect of the licence incurred before the date of cancellation.

#### 99. Removal of property, etc., by licensee, etc.

(1) Where a licence or a pipeline licence has been wholly determined, partly determined, wholly cancelled or partly cancelled or has expired, the Minister may by instrument served on the person who was, or is, the licensee or pipeline licensee, as the case may be, direct that person—

- (a) to remove or cause to be removed from the relinquished area, all property brought into that area by any person engaged or concerned in the operations authorized by the licence or pipeline licence, or to make arrangements that are satisfactory to the Minister with respect to that property; and
- (b) to plug or close off, to the satisfaction of the Minister, all wells made in that area by any person engaged or concerned in those operations; and
- (c) to make provision, to the satisfaction of the Minister, for the conservation and protection of the natural resources in that area.

(2) A person to whom a direction under Subsection (1) is given who refuses, or fails to comply with the direction within the period specified in the instrument by which the direction was given is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

#### 100. Removal and sale of property.

(1) Where a direction under Section 99 has not been complied with, the Minister may—

- (a) do or cause to be done all or any of the things required by the direction to be done; and
- (b) remove or cause to be removed, in such manner as he thinks fit, all or any of the property from the relinquished area concerned; and
- (c) dispose of, in such manner as he thinks fit, all or any of the property referred to in Paragraph (b); and
- (d) if he has served a copy of the instrument by which the direction was given on a person who he believed to be an owner of the property or part of the property—sell or cause to be sold by public auction or otherwise as he thinks fit, all or any of the property referred to in Paragraph (b) that belongs, or that he believes to belong, to that person.

(2) The Minister may deduct from the proceeds of a sale of property under Subsection (1) that belongs, or that he believes to belong, to a particular person—

- (a) all or any part of any costs and expenses incurred by him under that subsection in relation to that property; and
- (b) all or any part of any costs and expenses incurred by him in relation to the doing of anything required by a direction under Section 99 to be done by the person; and
- (c) all or any part of any fees or amounts due and payable under this Act by the person.

(3) The costs and expenses incurred by the Minister under Subsection (1)—

- (a) if incurred in relation to the removal, disposal or sale of property—are a debt due by the owner of the property to the State; or
- (b) if incurred in relation to the doing of anything required by a direction under Section 99 to be done by a person who is or was a licensee—are a debt due by that person to the State,

and to the extent to which they are not recovered under Subsection (2) are recoverable by the State as a debt.

(4) Subject to Subsection (3), no action lies in respect of the removal, disposal or sale of property under this section.

#### 101. Penalty for late payments.

(1) Where the liability of a person under this Act to pay an amount is not discharged on or before the time when the amount is payable, there is payable by that person an additional amount calculated at the rate of  $\frac{1}{3}\%$  per day on so much of that amount as from time to time remains unpaid, to be computed from the time that the amount became payable until it is paid.

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

#### 102. Securities.

(1) A security referred to in Division 2, 4 or 5—

- (a) shall be in such amount not exceeding K1 000 000.00 as the Minister thinks reasonable; and
- (b) shall be by way of a bond to pay the amount executed by the licensee or pipeline licensee, as the case may be, in an approved form, and be supported by—
  - (i) a cash deposit from the licensee or pipeline licensee; or
  - (ii) a guarantee of a bank acceptable to the Minister and in an approved form; or
  - (iii) some other approved form of security,

or any combination of the alternatives specified in Paragraph (i), (ii) or (iii).

(2) A bond, guarantee or other security document given in an approved form, although it is not sealed, shall bind the person subscribing to it as if it were sealed.

(3) Whenever a security under this Part is the subject of legal proceedings, the production of the security, without further proof, entitles the Minister to judgement against

the person appearing to have executed the security, for the amount of his stated liability or for such lesser amount as is claimed, unless that person proves—

- (a) compliance with the conditions of the security; or
- (b) that the security was not executed by him; or
- (c) release or satisfaction.

(4) For the purposes of Subsection (3)(a), the holder of a petroleum prospecting licence who has complied with a condition referred to in Section 27(2) shall not be taken to have failed to comply with the conditions of the security for the reason only that he has failed to complete any work referred to, or expend any amount specified, in the licence so far as it relates to any period subsequent to the date on which an application under Section 97(2), to which the Minister subsequently consents, is made.

(5) If it appears to the court that a condition of a security under this Part has not been complied with, the security shall not be deemed to have been discharged or invalidated, and the subscriber shall not be deemed to have been released or discharged from liability by reason of—

- (a) any extension of time or other concession; or
- (b) any consent to, or acquiescence in, a previous non-compliance with a condition; or
- (c) any failure to bring legal proceedings against the subscriber on the occurrence of a previous non-compliance with the condition.

(6) If there is more than one subscriber to the security, each is bound, unless the security otherwise provides, jointly and severally and for the full amount.

### 103. Further information to be furnished, etc.

(1) Where the Minister, the Director or an inspector has reason to believe that a person is capable of giving information or producing documents relating to petroleum exploration operations, or operations for the recovery of petroleum, he may, by instrument served on that person, require that person—

- (a) to furnish that information to him in writing within the period and in the manner specified in the instrument; or
- (b) to attend before him or a person specified in the instrument, at such time and place as is so specified, and there to answer questions relating to those operations and to produce such documents relating to those operations as are specified in the instrument.

(2) A person is not excused from furnishing information, answering a question or producing a document when required to do so under this section, on the grounds that the information so furnished, the answer to the question or the production of the document might tend to incriminate him or make him liable to a penalty, but the information so furnished or his answer to the question is not admissible in evidence against him in proceedings other than proceedings for an offence against Section 104.

### 104. Failing to furnish information, etc.

A person who—

- (a) refuses or fails to comply with a requirement in an instrument under Section 103 to the extent to which he is capable of complying with it; or

- (b) in purported compliance with a requirement referred to in Paragraph (a)—knowingly furnishes information that is false or misleading in a material particular; or
- (c) when attending before the Minister, the Director or an inspector under a requirement referred to in Paragraph (a)—knowingly makes a statement or produces a document that is false or misleading in a material particular,

is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**105. Drilling for and discovery of water.**

A person shall not, except in accordance with such conditions as are determined by the Minister, or in accordance with the provisions of the *Water Resources Act*, drill for water in any licence area.

**106. Survey of wells, etc.**

(1) The Minister or the Director may, at any time, by instrument served on a licensee, direct the licensee—

- (a) to carry out a survey of the position of the well, structure or equipment specified in the instrument; and
- (b) to furnish to the Minister or Director, as the case may be, a written report of the survey.

(2) Where the Minister or the Director is not satisfied with a report of a survey furnished to him under Subsection (1) by a licensee, he may, by instrument served on the licensee, direct the licensee to furnish further written information in connexion with the survey.

(3) A person to whom a direction is given under Subsection (1) or (2) who fails to comply with the direction is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**107. Records, etc., to be kept.**

The Minister or the Director may, by instrument served on a person carrying on operations under a licence or pipeline licence, or instrument of consent under Section 109, direct that person—

- (a) to keep such accounts, records and other documents in connexion with those operations as are specified in the instrument; and
- (b) to collect and retain such cores, cuttings and samples in connexion with those operations as are specified in the instrument; and
- (c) to furnish to the Minister in the manner specified in the instrument such reports, returns, other documents, cores, cuttings and samples in connexion with those operations,

as are specified in the instrument.

**108. Confidentiality, etc., of information.**

(1) All information supplied to the Minister, the Director or an inspector under this Act shall, if the Minister so directs, be verified by statutory declaration in a prescribed form.

(2) All geological and geophysical information supplied to the Minister, the Director or an inspector under this or the former Acts (including information concerning cores or

cuttings from, or samples of, the land surface, sea bed or subsoil in a block) shall, subject to this section, or except with the written consent of the licensee, be treated as confidential.

(3) Information referred to in Subsection (2) may be disclosed, and cores, cuttings or samples made available—

- (a) to an officer expressly authorized by the Minister or Director to receive that information or to examine those cores, cuttings or samples; and
- (b) in respect of a block or part of a block that was previously the subject of a licence under this Act or a permit or licence under either of the former Acts and is not the subject of a current licence under this Act—to the public; and
- (c) in respect of a block the subject of a current petroleum prospecting licence, that is not or is not included in a location—to the public not earlier than five years after that information was, or those cores, cuttings or samples were, supplied to the Minister, the Director, or an inspector, as the case may be; and
- (d) in respect of a block the subject of a current petroleum development licence—to the public not earlier than one year after that information was, or those cores, cuttings or samples were, supplied to the Minister, the Director, or an inspector, as the case may be.

(4) The Minister may at any time make use of any information or matter supplied by a licensee or a pipeline licensee, for the purpose of preparing and publishing aggregate returns and general reports with respect to operations under this Act.

(5) A person who acts in the execution of any duty under this Act shall not, except in the performance of that duty, divulge any information supplied to the Minister or to the Director in pursuance of this Act.

(6) A person who has been an officer or who has performed a duty under this Act shall not communicate any information acquired by him in the performance of that duty to any person other than a person authorized by law or by the Minister or the Director to receive that information.

#### 109. Scientific investigations: Instruments of consent.

(1) The Minister may, by instrument, consent to the carrying on by any person of petroleum exploration operations in the course of a scientific investigation.

(2) An instrument of consent shall be subject to such conditions (if any) as are specified in the instrument.

(3) An instrument of consent under this section authorizes the person to whom it is issued to carry out the petroleum exploration operation specified in the instrument—

- (a) in the area; and
  - (b) subject to the conditions (if any) specified in the instrument,
- in the course of scientific investigation.

#### 110. Inspectors.

(1) The Minister may, by notice in the National Gazette, appoint—

- (a) a person to be the Chief Inspector; and
  - (b) such other persons to be inspectors as he thinks necessary,
- for the purposes of this Act.

(2) The Minister shall issue to the Chief Inspector and to each inspector a certificate stating that he is an inspector.

(3) Where the appointment of a person under this section expires or is revoked, that person shall immediately surrender to the Minister the certificate issued to him under this section.

#### 111. Powers of inspectors.

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

- (a) enter any area, structure, vehicle, vessel, aircraft or building that, in his opinion, has been, is being or is to be, used in connexion with—
  - (i) petroleum exploration operations; or
  - (ii) operations for the recovery of petroleum; or
  - (iii) operations connected with the construction or operation of a pipeline; and
- (b) inspect and test any machinery or equipment that, in his opinion, has been, is being or is to be, used in connexion with any of the operations referred to in Paragraph (a); and
- (c) take or remove for the purpose of analysis or testing, or for use in evidence in connexion with an offence against this Act, samples of petroleum, water or other substances from a well; and
- (d) inspect, take extracts from, and make copies of, any document relating to any of the operations referred to in Paragraph (a); and
- (e) with respect to the health and safety of persons employed by a licensee or pipeline licensee in or in connexion with any of the operations referred to in Paragraph (a)—issue directions to and impose restrictions on the licensee or pipeline licensee, or any person so employed, by instrument; and
- (f) order, by instrument—
  - (i) the cessation of operations on or in, and the withdrawal of all persons from, any structure or building that is being used in connexion with any of the operations referred to in Paragraph (a); or
  - (ii) the discontinuance of the use of any machinery or equipment, which he considers unsafe, unless and until such action as is necessary for safety and specified in the instrument is taken and completed; and
- (g) make such examinations and inquiries as are necessary to ensure that the provisions of this Act, and any directions issued, restrictions 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 held 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, and conduct or assist in conducting a prosecution for any offence against this Act.

(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, vehicle, vessel, aircraft, building, machinery, equipment or matter or thing in respect of which the power is about to be exercised, the inspector shall produce his certificate referred to in Section 110(2) to that person and to any person to whom he is about to give an order or a direction.



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

(4) On appeal under Subsection (3), the Chief Inspector may—

- (a) rescind or affirm the decision, direction or order appealed from; or
- (b) substitute a new decision, direction or order, and that decision, direction or order shall not be subject to further appeal<sup>1</sup>.

(5) In 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, tested or examined.

(6) A person who is an occupier or person in charge of any building, structure or place, or the person in charge of any vehicle, vessel, aircraft, machinery or equipment referred to in Subsection (1), must provide an inspector with all reasonable facilities and assistance for the effective exercise of the inspector's powers under this section.

Penalty: A fine not exceeding K5 000.00.

(7) A person who—

- (a) without reasonable excuse, obstructs, molests or hinders an inspector in the exercise of his powers under this section; or
- (b) knowingly makes a statement or produces a document that is false or misleading in a material particular to an inspector engaged in carrying out his duties and functions under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K5 000.00.

**112. General penalty.**

A person who contravenes or fails to comply with—

- (a) a provision of this Act applicable to him and for which no other penalty is provided; or
- (b) a requirement, direction, order or instruction lawfully given or made under this Act, other than a direction under Section 93,

is guilty of an offence.

Penalty: A fine not exceeding K1 000.00.

**113. Continuing offences.**

(1) Where an offence is committed by a person by reason of his failure to comply, within the period specified in a direction given to him under this Act, with the requirements specified in the direction, the offence, for the purposes of Subsection (3), shall be deemed to continue so long as any requirement specified in the direction remains undone, notwithstanding that the period has elapsed.

(2) Where an offence is committed by a person by reason of his failure to comply with a requirement made by this Act, the offence, for the purposes of Subsection (3), shall be

<sup>1</sup>But, see, Constitution, Section 155.

deemed to continue so long as that failure continues, notwithstanding that any period within which the requirement was to be complied with has elapsed.

(3) Where, under Subsection (1) or (2), an offence is deemed to continue, the person who committed the offence commits an additional offence against this Act on each day during which the offence is deemed to continue and is liable, on conviction for such an additional offence, to a fine not exceeding K5 000.00.

#### 114. Orders for forfeiture in respect of certain offences.

(1) Where a person is convicted of an offence against this Act a court may, in addition to imposing a fine, make—

- (a) an order for the forfeiture of any vehicle, aircraft, vessel or equipment used in the commission of the offence; and
- (b) an order—
  - (i) for the forfeiture of petroleum recovered, or conveyed through a pipeline, as the case may be, in the course of the commission of the offence; or
  - (ii) for the payment by that person to the State of an amount equal to the proceeds of the sale of petroleum so recovered or conveyed; 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 so assessed, of petroleum so recovered or conveyed or for the payment of such a part of that amount as the court, having regard to all the circumstances, thinks fit.

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

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

#### 115. Service.

(1) A document required or permitted by this Act to be served on a person, other than the Minister or the Director, shall be deemed to be duly served if sent by registered post addressed to the usual postal address last known to the Director of that person.

(2) A document required or permitted by this Act to be served on the Minister or the Director may be served by registered post addressed to the Director.

(3) Where a document to be served is served by post in accordance with this section, service shall be deemed to have been effected at the time at which the letter would have been delivered in the ordinary course of post.

#### *Division 9.—Fees and Royalties.*

#### 116. Fees, etc.

(1) A licensee shall pay an annual fee at the rate of—

- (a) in the case of a petroleum prospecting licence granted otherwise than by way of extension—K100.00 for each block to which the licence relates; and

(b) in the case of a petroleum prospecting licence granted by way of extension—for each block to which the licence relates—

(i) in the first year of the term of the extension—K200.00 per block; and

(ii) in the second year of the term of the extension—K300.00 per block; and

(iii) in the third year of the term of the extension—K400.00 per block; and

(iv) in the fourth year of the term of the extension—K600.00 per block; and

(v) in the fifth year of the term of the extension, and in any year of any further extension—K800.00 per block; and

(c) in the case of a petroleum development licence—K50 000.00.

(2) Subject to this Act, an annual fee referred to in Subsection (1) is payable—

(a) in the case of the first year of the term of the licence—before the licence is issued; and

(b) in the case of each subsequent year of the term of the licence—on the anniversary of the day the licence took effect.

(3) Where a licence is surrendered or cancelled during a year of the licence, no refund shall be made of any part of the annual fee paid for that year.

#### 117. Determination of value of petroleum.

The Minister shall, from time to time, after considering any information furnished by the licensee and any other information that the Minister thinks relevant, determine in accordance with Schedule 2 the value, for the purposes of this Act, of petroleum produced from a petroleum development licence—

(a) in the case of petroleum intended for export—as at the point of export; or

(b) in the case of petroleum not intended for export—as at the point of delivery to a refinery or processing facility in Papua New Guinea.

#### 118. Royalty.

(1) Subject to Subsection (2), a licensee shall pay to the State royalty at a rate of 1.25% of the wellhead value of all petroleum produced from the licence area.

(2) For the purposes of Subsection (1), the wellhead value of any petroleum is the value of the petroleum determined in accordance with Section 117 less any costs attributable to the processing of the petroleum and its transportation between the wellhead and the point of export or delivery, as the case requires, referred to in that section.

#### 119. Ascertaining quantity of petroleum recovered.

For the purposes of this Act, the quantity of petroleum recovered by a licensee during a period is—

(a) the quantity measured during that period by an approved measuring device installed at the wellhead or some other approved place; or

(b) where no such measuring device is installed, or the Minister is not satisfied that the quantity of petroleum recovered by the licensee has been properly or accurately measured by such a device—the quantity determined by the Minister as being the quantity so recovered during that period.

**120. Payment of royalty and penalty for late payment.**

(1) Royalty under this Act in respect of petroleum recovered during a royalty period is payable not later than the last day of the next succeeding royalty period.

(2) Where the amount of royalty under this Act is not paid as provided by Subsection (1), there is payable to the Director by the licensee an additional amount calculated at the rate of  $\frac{1}{4}\%$  per day on the amount of royalty from time to time remaining unpaid, to be computed from the time when the royalty became payable until it is paid.

(3) An additional amount is not payable under Subsection (2) in respect of any period before the expiration of seven days after the value of the petroleum was determined under Section 117.

**121. Registration fees.**

There is payable to the Director in respect of all instruments required to be registered under this Act such fees as are prescribed.

**PART IV.—MISCELLANEOUS.**

**122. Inspectors not to have any interests in licences, etc.**

The Minister, the Director, an inspector or an authorized officer appointed under this Act must not hold, or have any interest in, any licence, or hold shares in any company holding, or having any interest in, any licence under this Act.

Penalty: A fine not exceeding K1 000.00 or imprisonment for a term not exceeding two years or both.

**123. Points, etc., to be ascertained by reference to geodetic datum.**

(1) Where for the purposes of this Act, or for the purpose of an instrument under this Act, it is necessary to determine the position on the surface of the Earth at a point, line or area, that position shall be determined by reference to a spheroid having its centre at the centre of the Earth and a major (equatorial) radius of 6 378 160 m and a flattening of 100/29825 and by reference to the position of the Bevan Rapids (AA 070) Geodetic Station in the Gulf Province of Papua New Guinea.

(2) The Bevan Rapids Geodetic Station shall be taken to be situated at 7 degrees 21 minutes 34.7974 seconds of south latitude and at 145 degrees 15 minutes 52.9878 seconds of east longitude and to have a ground level of 406.30 m above mean sea level.

**124. Regulations.**

(1) The Head of State, acting on advice, may make regulations not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act or for securing, regulating, controlling or restricting—

- (a) the exploration for petroleum and the carrying on of operations, and the execution of works, for that purpose; and
- (b) the recovery of petroleum and the carrying on of operations, and the execution of works, for that purpose; and
- (c) the construction and operation of pipelines, water lines, secondary lines, pumping stations, tank stations or valve stations and the carrying on of operations, and the execution of works, for any of those purposes.

(2) Without limiting the generality of Subsection (1), the regulations may—

- (a) prescribe work practices and safety measures to—
  - (i) control the flow and prevent the waste or escape of petroleum or water; and
  - (ii) prevent the escape of water or drilling fluid or the mixture of water or drilling fluid with petroleum or any other matter; and
  - (iii) prevent damage to petroleum-bearing strata in an area in respect of which a licence is not in force; and
  - (iv) keep separate each petroleum pool and each source of water discovered in a licence area; and
  - (v) prevent water or other matter entering a petroleum pool through wells; and
  - (vi) prevent the pollution of any water-well, spring, stream, river, lake, reservoir, estuary, harbour or area of sea by the escape of petroleum, salt water, drilling fluid, chemical additive or any other waste product or effluent; and
- (b) prescribe areas where drilling for petroleum is prohibited; and
- (c) regulate the location and spacing of wells, and for this purpose provide for the establishment and designation of spacing units; and
- (d) prescribe the methods, equipment and materials to be used in boring, drilling, completing, plugging or operating wells; and
- (e) regulate the construction, erection, maintenance, operation or use of installations or equipment; and
- (f) prescribe measures to prevent the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station; and
- (g) require a licensee or pipeline licensee to maintain in good condition and repair all structures, equipment and other property used or intended to be used for or in connexion with exploration for, or the recovery or conveyance of, petroleum; and
- (h) provide for the removal of structures, equipment and other property, brought into the country in connexion with exploration for, or the recovery or conveyance of, petroleum, that are not used or intended to be used in connexion with that exploration, recovery or conveyance; and
- (i) regulate the pressure maintenance in, or the repressuring of, a petroleum pool and the recycling of petroleum; and
- (j) regulate the secondary or tertiary recovery of petroleum from a petroleum pool and provide for the methods to be used in such recovery; and
- (k) regulate the use of wells and the use of the subsurface for the disposal of petroleum, water and other substances produced in association with the exploration for or the recovery of petroleum; and
- (l) prescribe the rates, or the method of setting the rates, at which petroleum and water may be recovered from any well or petroleum pool; and
- (m) prescribe the methods to be used for the measurement of petroleum, water and other substances from a well; and

- (n) regulate or control the tariffs charged by pipeline licensees and the conditions of use of pipelines; and
- (o) prescribe safety standards and provide for the health and safety of persons employed in or in connexion with the exploration for or the recovery or conveyance of petroleum; and
- (p) require licensees to take, preserve and furnish to the Director cores, cuttings and samples from wells and samples of petroleum and water; and
- (q) require licensees and pipeline licensees to give to the Director reports, returns and other information; and
- (r) require a licensee to take logs or directional surveys or make other down-hole investigations; and
- (s) prescribe forms and other documents to be used in the administration of this Act, other than approved forms; and
- (t) prescribe penalties of fines not exceeding K5 000.00 and default penalties of fines not exceeding K500.00 for offences against the regulations; and
- (u) prescribe fees.

**125. Repeal.**

The Acts specified in Schedule 1 are repealed.

**PART V.—TRANSITIONAL PROVISIONS.****126. Interpretation of Part V.**

In this Part—

- “commencement date” means 8 June, 1978, being the date on which the *Petroleum Act 1977* came into force;
- “offshore Act” means the *Petroleum (Submerged Lands) Act*;
- “onshore Act” means the *Petroleum (Prospecting and Mining) Act*;
- “permit” means a permit granted under Division III.2, or a licence granted under Division III.3, of the onshore Act, as the case may be.

**127. Offshore licences to continue in force.**

Where, on the commencement date—

- (a) a petroleum prospecting licence issued under Division IV.2 of the offshore Act; or
- (b) a permit deemed to be a petroleum prospecting licence issued under Division IV.2 of the offshore Act by virtue of the operation of the *Petroleum (Gulf of Papua) Agreement Act*,

was in force, that licence or permit shall continue in force and shall be deemed to be a petroleum prospecting licence issued under Division III.2 of this Act commencing on 1 September 1975.

**128. Permits to continue in force.**

(1) A permit issued under the onshore Act before the commencement date and in force at that date shall remain in force until the date that—

- (a) the permit expires under that Act; or

- (b) a licence is issued in respect of all or part of the permit area under Division III.2 of this Act; or
- (c) all applications for a licence or licences with respect to the permit area made within the period specified in Section 129 have lapsed.

(2) It is not an offence against Section 7 for the holder of a permit to which this section relates to explore for petroleum in the area specified in the permit in accordance with the conditions (if any) applying to the permit.

(3) Any block or part of a block comprised in the area of a permit to which this section relates shall be deemed, until the date that the permit expires under the onshore Act, to be for the purposes of Section 15 of this Act a block comprised in a licence under Section 16(1) of this Act.

(4) This Part shall not be construed as giving the Minister any power to extend a permit under the onshore Act, where the date from which such extension would take effect is a date after the commencement date.

**129. Holders of permits may apply.**

(1) The holder of a permit to which Section 128 relates may apply, at any time prior to the expiry of the permit under the onshore Act but in any event not later than one year after the commencement date, to the Director for the grant of a petroleum prospecting licence under this Act.

(2) An application under Subsection (1) shall be made in accordance with Division III.2 and the provisions of that Division shall apply to the consideration of the application.

(3) Subject to Section 19, where the area of a permit to which Section 128 relates does not immediately adjoin the area of another permit or licence, an application under Subsection (1) may include—

- (a) all of the blocks comprised in the permit area; and
- (b) the whole of any blocks part of which are comprised in the permit area.

(4) The Minister shall not invite applications under Section 18 in respect of any area comprised in a permit to which Section 128 relates until—

- (a) the permit has expired under the onshore Act; and
- (b) any applications made by the holder of the permit under Subsection (1) have lapsed, in accordance with the provisions of Division III.2 or until a licence has been granted under Section 16 with respect to part of the area comprised in the permit.

SCHEDULE 1.

Sec. 125.

REPEALED ACTS.

- Petroleum (Prospecting and Mining) Act.*
- Petroleum (Submerged Lands) Act.*
- Petroleum (Submerged Lands) (Amendment) Act 1976 (No. 81 of 1976).*
- Petroleum (Submerged Lands) (National Seas) Act 1977 (No. 8 of 1977).*

SCHEDULE 2.

Sec. 117.

DETERMINATION OF VALUE OF PETROLEUM UNDER SECTION 117.

PART 1.—PRELIMINARY.

Sch.2.1. Interpretation of Schedule 2.

In this Schedule—

- “adjusted price” means net realizable price with any appropriate adjustment for sales margins or commissions;
- “appropriate adjustment”, in relation to any provision of this Schedule, means such adjustment for the purposes of the provision as is agreed on between the Minister and the licensee, or in default of agreement, as is reasonably determined by the Minister;
- “domestic value” means a value to be determined under Section 117 for petroleum not intended for export;
- “export value” means a value to be determined under Section 117 for petroleum intended for export;
- “the guidelines” means the guidelines adopted under Part 3 of this Schedule;
- “the licensee” means the holder of the licence from which the petroleum which is to be given a value under Section 117 is produced;
- “relevant contract” means an agreement for the sale at an arms’ length price of petroleum for delivery—
  - (a) by more than one shipment; and
  - (b) over a period of more than three months,that was in force during the relevant period;
- “the relevant period”, in relation to the determination of a value for any petroleum, means the period of three months, or such longer period as in special circumstances is agreed on between the Minister and the licensee, before the date as at which the value is to be determined.

Sch.2.2. “Sale at arms’ length”.

For the purposes of this Schedule, a sale is at arms’ length where—

- (a) the consideration expressed in the agreement for the sale is the sole consideration for the sale; and
- (b) the terms of the sale are not affected by any commercial relationship (other than the relationship created by the agreement or sale) between the seller and the buyer or any person connected with the buyer; and
- (c) neither the seller nor any person connected with him has any direct or indirect interest in the subsequent re-sale or disposal of the petroleum or of any product of it,

and no other sale shall be taken to be at arms’ length.

Sch.2.3. “Arms’ length price”.

(1) In this Schedule, “arms’ length price”, in relation to a sale or an agreement for the sale of any petroleum, means—

- (a) where the sale was, or was to be, at arms’ length—the sale price; and
- (b) where the sale was not, or was not to be, at arms’ length—the price that, in the opinion of the Minister, the petroleum would have brought had the sale been at arms’ length.

(2) Subject to Subsection (3), where in the opinion of the Minister it is not practicable in the circumstances of a particular sale that was not at arms’ length, or of a particular agreement for such a sale, to determine what would have been the price referred to in Subsection (1)(b), the sale shall be disregarded for the purposes of any provision of this Schedule that relates to arms’ length prices.



(3) For the purposes of any provision of this Schedule that refers to an average price based on sales at arms' length or arms' length prices, a sale that is not a sale at arms' length, or a price that is not an arms' length price, may be taken into account where the Minister is satisfied that a series of sales, or a number of related sales, of which the sale concerned was one, was or were such that the total of the prices paid amounted to, or was the equivalent of, an arms' length price for all the petroleum sold.

#### Sch.2.4. Comparison of petroleum.

Where it is necessary for the purposes of this Schedule to compare—

- (a) petroleum of different qualities or grades; or
- (b) prices of—
  - (i) petroleum of different qualities or grades; or
  - (ii) petroleum sold, or agreed to be sold, in significantly different quantities,

appropriate adjustments shall be made to reconcile or compensate for the difference.

#### Sch.2.5. Comparison of prices.

Where it is necessary for the purposes of this Schedule to compare prices, appropriate adjustments shall be made for differences in any relevant costs, including the terms of any credit allowed and transport costs, in addition to any adjustments to be made in accordance with Section Sch.2.4 to enable the prices to be related to comparable qualities, grades or quantities of petroleum.

### PART 2.—NORM VALUES.

#### Sch.2.6. Determination of value by reference to relevant contracts.

If the Minister is satisfied that there has been a sufficient number of relevant contracts for the sale—

- (a) where the value to be determined is an export value—of locally produced petroleum for export; or
- (b) where the value to be determined is a domestic value—of locally produced petroleum for refining or processing in Papua New Guinea,

to allow a norm price to be satisfactorily determined, the export value or the domestic value, as the case may be, shall be determined having regard to the weighted average of the comparable adjusted prices per barrel under the contracts to which Paragraph (a) or (b), as the case may be, relates.

#### Sch.2.7. Determination of value in other cases.

In a case to which Section Sch.2.6 does not apply, the Minister shall determine an export value or a domestic value, as the case requires, that in his opinion represents a fair arms' length price for the petroleum concerned, and in so doing he shall have regard to any appropriate marker price adopted under Section Sch.2.9.

### PART 3.—GUIDELINES.

#### Sch.2.8. Regulations as to guidelines.

Subject to Section 117 and to this Schedule, the regulations may make provision in respect of the adoption of guidelines to be followed in, and in relation to, the determination of the value of petroleum under that section.

#### Sch.2.9. Marker prices.

(1) The guidelines may adopt or provide for the adoption of marker prices for the purposes of the guidelines and of this Schedule.

(2) In arriving at any decision or opinion, and in making any calculation or estimation, for the purposes of this Schedule the Minister shall, to the extent and in the manner provided in this Schedule and the guidelines, have regard to any appropriate marker price adopted under Subsection (1).

PART 4.—ARBITRATION.

**Sch.2.10. References to arbitration.**

(1) Subject to Subsection (3), where there is a dispute between the Minister and the licensee as to the value that should, in accordance with this Schedule, be determined for any petroleum, the licensee may, by written notice to the Minister, require that any matter relating to the determination of the value, being a matter of a kind specified in Section Sch.2.11, be referred to arbitration.

(2) Where a licensee makes a requirement under Subsection (1), the matter stands referred to arbitration in accordance with the *Arbitration Act*, and pending a decision on the reference, the determination by the Minister stands.

(3) This section does not apply unless the difference between the value determined by the Minister and the value claimed by the licensee exceeds 0.5% of the former.

**Sch.2.11. Matters referable to arbitration.**

The matters that may be referred to arbitration under Section Sch.2.10 are:—

- (a) any question, whether the Minister has had proper regard to the matters to which, under this Schedule or the guidelines, regard is to be had; and
- (b) any question, whether the Minister has properly followed the guidelines; and
- (c) any question as to the comparability of petroleum or of sales or prices, or as to the appropriate adjustments to be made in any case; and
- (d) any question as to the sufficiency, for any purpose of this Schedule or of the guidelines, of a number of sales or contracts; and
- (e) any question, whether a sale was an arms' length sale, or a price was an arms' length price; and
- (f) any question, whether an export value or a domestic value determined under Section Sch.2.7 represents a fair arms' length price; and
- (g) any relevant scientific or technical matter, or any relevant factual matter; and
- (h) any other matter that is prescribed, or that is agreed on by the Minister and the licensee, for the purpose.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 198.

*Petroleum (Directions) Regulation.*

---

ARRANGEMENT OF SECTIONS.

1. Directions.

Schedule—Matters on which Directions may be given under Section 93 of the Act.



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 198.

***Petroleum (Directions) Regulation.***

MADE under the *Petroleum Act.*

1. Directions.

The Minister, the Director or an inspector may give to a person directions in respect of the matters set out in the Schedule.

---

SCHEDULE.

---

MATTERS ON WHICH DIRECTIONS MAY BE GIVEN UNDER SECTION 93 OF THE ACT.

Cranes and winches on platforms.  
Development (production) facilities.  
Diving.  
Drilling off shore.  
Drilling on shore.  
Electrical safety.  
Explosives.  
General safety.  
Geological and geophysical surveys.  
Marine operations.  
Petroleum development (production) and conservation.  
Pipelines.  
Reports and applications.  
Submission of data.  
Transport.

Vertical dashed line on the right side of the page. Horizontal lines and a dashed line are present on the right side, possibly indicating a margin or a table structure.

INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 198.

*Petroleum.*

SUBSIDIARY LEGISLATION.

1. Act, Section 10.—Appointment of Director.  
Secretary for Minerals and Energy. (Office as at 17 August 1978.)
2. Act, Section 12(2)(b).—Appointment of the Members of the Petroleum Advisory Board.  
Assistant Secretary (Mines Division), Department of Minerals and Energy (Deputy Chairman).  
First Assistant Secretary, Development Administration, Department of Decentralization.  
Assistant Secretary, General Financial Policy, Department of Finance.  
Executive Director, National Investment and Development Authority.  
(Offices as at 17 August 1978.)

5


6

7



INDEPENDENT STATE OF PAPUA NEW GUINEA.

CHAPTER NO. 198.

*Petroleum.*

---

APPENDIXES.

---

APPENDIX 1.

---

SOURCE OF THE PETROLEUM ACT.

Previous Legislation.

*Petroleum Act.*

as amended by—

*Torres Strait Treaty (Miscellaneous Amendments) Act 1984 (No. 26 of 1984.)*

---

APPENDIX 2.

---

SOURCE OF THE PETROLEUM (DIRECTIONS) REGULATION.

Part A.—Previous Legislation.

*Petroleum (Directions) Regulation 1978. (Statutory Instrument No. 26 of 1978).*

Part B.—Cross References.

Section, etc. in Revised Edition.	Previous Reference. <sup>1</sup>
1 Schedule	1 Schedule

<sup>1</sup>Unless otherwise indicated, reference is to the regulation set out in Part A.

10

---

---

---

---

11

---

12