

OFFSHORE PETROLEUM ACT, 2007 – 30

(Corrected copy)

Arrangement of Sections

Section

PART I

Preliminary

1. Short title.
2. Interpretation.
3. Application of Act.
4. Administration of Act.
5. Vesting of property in petroleum in the Crown.

PART II

General Licensing Requirements

6. Offence to carry out petroleum operations unless licensed.
7. Conditions may be imposed in licences etc.
8. Qualification to apply in response to call for tenders or call for negotiations.
9. Register of qualified persons.

(ii)

Section

PART III

Reconnaissance

10. Application for and issue of reconnaissance licence.
11. Prohibition against drilling activities under reconnaissance licence.
12. Non-exclusivity of reconnaissance licence.
13. Extension of reconnaissance licence.

PART IV

Exploration

14. Invitation to apply for exploration licence.
15. Application for and issue of exploration licence.
16. Work programme.
17. Guarantee in respect of work programme.
18. Extension of exploration licence.
19. Relinquishment of area subject to exploration licence.

PART V

Discovery, Appraisal and Production

20. Discovery.
21. Appraisal plan.
22. Declaration of commercial discovery.

(iii)

Section

24. Application for and issue of production licence.
25. Extension of production licence.
26. Development plan.
27. Decommissioning plan.
28. Decommissioning fund.
29. Property in petroleum passes to licensee at well head.

PART VI

Transfer, Surrender, Suspension and Cancellation of Licence

30. Transfer of licence.
31. Surrender of licence etc.
32. Suspension of licence by agreement.
33. Disciplinary power to suspend licence.
34. Suspension of petroleum operations for emergencies etc.
35. Suspension of petroleum operations for force majeure.
36. Cancellation of licence.

(iv)

Section

PART VII

General Duties of Licensees

- 37. Best industry practice.
- 38. Environmental duty.
- 39. Health and safety duty.
- 40. Local content duty of licensee.
- 41. Unitisation.

PART VIII

Decommissioning

- 42. Licensee to decommission.

PART IX

Crown Participation

- 43. Crown may require percentage interest in licence.
- 44. Crown takeover.
- 45. Domestic supply.

(v)

Section

PART X

Fees and royalties

46. Area Fee.
47. Coastal and marine environmental research fee.
48. *Minimum annual training expenditure.*
49. License to pay royalty.
50. Payment of royalty in kind.
51. Ascertainment of value of petroleum.

PART XI

Miscellaneous

52. Data, and confidentiality.
53. Records.
54. Investigation and enforcement.
55. *Dispute resolution process.*
56. Administrative penalties.
57. Power to make Regulations.
58. Consequential amendments.
59. Act binds the Crown.
60. Commencement.

SCHEDULE

BARBADOS

I assent
C. STRAUGHN HUSBANDS
Governor-General.
16th August, 2007.

2007–30

An Act to vest in the Crown, the property in petroleum in the territorial waters, exclusive economic zone and continental shelf of Barbados and to make provision for the search for and recovery of the petroleum and for related matters.

(By Proclamation) Commence-
ment.

ENACTED by the Parliament of Barbados as follows:

PART I

Preliminary

1. This Act may be cited as the *Offshore Petroleum Act, 2007*. Short title.

Interpreta-
tion

2. In this Act,

"administrative penalty" means a penalty which may be imposed on a licensee by the Designated Authority;

Cap. 308.

"affiliate" in relation to a company, has the meaning assigned to it by section 448(b) of the *Companies Act*;

"appraisal activities" means activities necessary to assess whether a discovery is a commercial discovery;

"appraisal plan" means a plan which specifies the activities necessary to assess whether a discovery is a commercial discovery,

"best industry practice" means a practice, procedure or specification which is generally applied by the international petroleum industry as good, safe, efficient and necessary in the carrying out of petroleum operations and includes a practice, procedure or specification, approved by

- (a) the American Gas Association;
- (b) the American Petroleum Institute;
- (c) the American Society of Mechanical Engineers;
- (d) the American Society for Testing and Materials;
- (e) the British Standards Institute; or
- (f) the International Organisation for Standardisation;

"block" means an area which

- (a) is bounded by lines delineated according to the Mercator projection (12N latitude of true scale) referred to the International Geodesic System WGS-84; and
- (b) may be the subject of an exploration licence or a production licence;

- "call for negotiations" means an invitation for persons qualified pursuant to section 8 to enter into negotiations within a specified period, for an exploration licence or a production licence, in relation to a block specified by the Designated Authority;
- "call for tenders" means an invitation for persons qualified pursuant to section 8 to submit a tender for an exploration licence or a production licence, in relation to a block specified by the Designated Authority;
- "commercial discovery" means a discovery of petroleum that in the reasonable opinion of a licensee, after consideration of all relevant data and of operative, technical and economic factors, may be developed commercially by the licensee;
- "continental shelf" means the sea bed and subsoil of the subsea area of Barbados, up to the limits established in accordance with international law;
- "decommission" means to undertake activities in respect of a petroleum facility upon the permanent cessation of petroleum operations, to ensure that the facility is safely removed or left in a permanently safe and secure condition;
- "Decommissioning Fund" means a fund to be used exclusively for the funding of the costs and expenses of performing decommissioning operations;
- "decommissioning operations" means activities related to the execution of a decommissioning plan;
- "decommissioning plan" means a plan which specifies the manner in which a licensee intends to decommission a petroleum facility;
- "Designated Authority" means the Minister responsible for energy;
- "development area" means an area which is reasonably demonstrated by available seismic and well data to cover the horizontal extent of an accumulation of petroleum constituting a discovery;

"development plan" means a plan which specifies the activities to be carried on by a licensee to develop a licence area subject to a production licence;

"discovery" means a discovery of petroleum;

"drilling activities" includes all preparations for and implementation of operations surrounding the drilling of a well and operations such as well completion, data acquisition, monitoring, well control, modification and plugging of existing wells but does not include workover activities;

"emergency" means a serious situation that occurs unexpectedly and demands immediate action and includes

(a) a serious accident, spill or escape of hazardous substance; and

(b) a serious and imminent danger to life, health or property;

"environment" means the ecosystems, natural resources, land, water and airspace of Barbados and its territorial waters, exclusive economic zone and continental shelf;

"environmental impact assessment" means an assessment of the impact that a petroleum operation is likely to have on the environment and a description of any measures to prevent or mitigate any adverse impact;

"environmental management system" means a set of procedural rules and processes to assist a licensee who carries out petroleum operations, in the effective planning, organisation, control, monitoring and review of necessary preventive and protective measures in respect of matters related to the environment;

Cap. 387. "exclusive economic zone" has the meaning assigned to it by section 2 of the *Marine Boundaries and Jurisdiction Act*;

"exploration activities" means any activities related to the exploration for petroleum;

"exploration licence" means a licence which authorises a licensee to explore for petroleum in a delimited area;

"exploration period" means the duration of an exploration licence;

"field" means a combination of oil or gas reservoirs which exists under a specific area of the earth's surface in one or more geologic structures and may

(a) be connected by permeable and porous rocks throughout the producible area; and

(b) consist of multiple reservoir layers;

"fluid" means a gas or liquid or both in combination;

"force majeure" means an extraordinary event or circumstance beyond the licensee's reasonable control that could not have been reasonably foreseen or reasonably overcome by the licensee;

"hazardous substance" means a substance that has the potential to threaten the health or safety of a person;

"health and safety management system" means a set of procedural rules and processes to assist a licensee who carries out petroleum operations, in the effective planning, organisation, control, monitoring and review of necessary preventive and protective measures in respect of matters related to health and safety;

"holding company" has the meaning assigned to it by section 442 of the *Companies Act*;

Cap. 308.

"licence area" means an area subject to a licence issued pursuant to this Act but does not include

(a) in the case of an exploration licence, an area subject to a production licence;

(b) an area relinquished pursuant to this Act; or

(c) an area surrendered pursuant to this Act;

"licensee" means a person to whom a licence is issued pursuant to this Act;

"major environmental incident" means a fire, explosion, blowout or significant spill of oil or other hazardous substances;

"major hazard" means catastrophic releases of toxic, reactive, flammable, corrosive or explosive chemicals that can result in toxic, fire or explosion hazards;

"major health and safety incident" means an incident which results in serious injury to a person or death or catastrophic failure of equipment used in petroleum operations;

"non-associated gas" means natural gas in a reservoir which contains insignificant amounts of or no crude oil;

"NYMEX exchange" means the New York Mineral Exchange;

"operator" means a person who is competent to manage and perform petroleum operations;

"participant" means a person who, using his own, borrowed or attracted funds, may have a beneficial interest in petroleum operations;

"person" includes a firm and a society with restricted liability;

"personnel" includes employees and independent contractors associated with a petroleum facility and visitors to the facility;

"petroleum" includes any mineral oil or related hydrocarbon and natural gas existing in its natural condition in strata and bitumen and asphalt but does not include tar-sand, manjak, coal or bituminous shales or other stratified deposits from which oil can be recovered by destructive distillation;

"petroleum facility" includes all sites, buildings, structures or installations and equipment, that are connected or associated with the conduct of petroleum operations;

"petroleum operations" means activities related to the exploration for petroleum and the development and production of petroleum within a licence area, and also includes other activities connected with those operations, such as gathering, separation and treatment, storage and transportation of petroleum to a point of export or to an agreed point of supply within Barbados;

"plant" includes any machinery, equipment or appliance;

"production activities" means activities related to the development of fields, the production of petroleum or the construction, installation, operation or maintenance of production facilities and includes activities

- (a) for the recovery of petroleum;
- (b) to establish the nature and extent of a discovery and the appropriate techniques to be employed in respect of the production of the petroleum; and
- (c) for the transportation, treatment, processing and separation of the petroleum,

but does not include exploration activities, drilling activities and workover activities;

"production facilities" includes

- (a) all buildings, structures, installations, plant or appurtenances, whether on the surface or subsurface, within the licence area, that are connected to or associated with the recovery, development, production, handling, processing, treatment, transportation or disposal of petroleum or any associated substances or wastes; and
- (b) all facilities for water, power, accommodation and access, that may be necessary for undertaking production activities;

"production licence" means a licence which authorises a licensee to undertake production activities in a delimited area;

"reconnaissance activities" means geological, geochemical or geophysical assessment or any other form of assessment, to determine whether petroleum exists in an area;

"reconnaissance licence" means a licence which authorises a licensee to undertake reconnaissance activities in a delimited area;

"reservoir" means a portion of porous and permeable geologic formation, which contains an accumulation of liquid or gaseous hydrocarbons of both, in which all parts are in hydraulic connection and which is separated or appears to be separated from any other such accumulation;

Cap. 386. "territorial waters" has the meaning assigned to it by section 2 of the *Barbados Territorial Waters Act*;

"well" means a borehole which is drilled in order to discover or delimit a petroleum deposit or to produce petroleum or water for injection purposes, to inject gas, water or other medium, or to map or monitor well parameters, consisting of one or several well paths and having one or several termination points;

"workover activities" means any activities performed in a well for the purpose of repair, modification or improvement;

"work programme" means a programme of the minimum commitments in respect of work to be undertaken under an exploration licence.

Application of Act. 3. This Act applies to activities for and associated with the search for and recovery of petroleum in the territorial waters, exclusive economic zone and continental shelf of Barbados.

Administration of Act. 4. (1) The Designated Authority shall be responsible for the administration of this Act.

(2) Without prejudice to the generality of subsection (1), the Designated Authority shall

(a) determine applications for licences; and

(b) monitor licensees and determine whether licensees are in compliance with the terms and conditions of the licences and this Act.

(3) The Designated Authority may delegate to a public officer, any of the powers or functions conferred on the Designated Authority under this Act, except the power conferred in section 57.

5. (1) The property in petroleum in the territorial waters, exclusive economic zone and continental shelf of Barbados is vested in the Crown. Vesting of property in petroleum in the Crown.

(2) The Crown has the exclusive right to search for and recover petroleum in the territorial waters, exclusive economic zone and continental shelf of Barbados.

PART II

General Licensing Requirements

6. (1) No person shall carry out petroleum operations in an area to which this Act applies, except in accordance with a licence issued pursuant to this Act. Offence to carry out petroleum operations unless licensed.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$500 000 or to imprisonment for 7 years.

7. The Designated Authority may in respect of Conditions may be imposed in licences etc.

(a) the issue of a licence;

(b) the grant of any approval; or

(c) the authorisation of any matter,

in connection with the search for and recovery of petroleum, require such information and impose such conditions as it considers appropriate in the circumstances.

Qualifica-
tion to apply
in response
to call for
tenders or
call for
negotiations.

8. (1) No person other than a person who qualifies as an operator or a participant shall apply for a licence in response to a call for tenders or a call for negotiations.

(2) Notwithstanding subsection (1)

(a) a person shall not make an application on his own unless the person is qualified as an operator;

(b) more than one person shall not make an application jointly unless

(i) at least one party to the application is qualified as an operator; and

(ii) the parties identify in the application, the person who is both qualified and intended to act as the operator.

(3) A person may, upon payment of the prescribed fee, apply to the Designated Authority to qualify as an operator or a participant.

(4) Where the Designated Authority is satisfied that the applicant is a suitable person to qualify as an operator or a participant, as the case may be, the Designated Authority may issue to the applicant a notice of qualification.

(5) Qualification as an operator or a participant shall be valid for 5 years from the effective date of the notice.

(6) A person qualified as an operator or a participant shall give written notice to the Designated Authority as soon as practicable, regarding any material change in the status of the person.

(7) Notwithstanding subsection (5), the Designated Authority may cancel the qualification of a person where

- (a) there is an adverse material change in the status of the person; or
- (b) the person supplies false or misleading information or fails to supply material information, in respect of or following the application for qualification.

9. (1) The Designated Authority shall keep a register of the persons qualified as operators and participants.

Register of qualified persons.

(2) A person may, upon payment of the prescribed fee, inspect the register.

PART III

Reconnaissance

10. (1) A person who intends to carry out reconnaissance activities may, upon payment of the prescribed fee, apply to the Designated Authority for a reconnaissance licence in respect of a delimited area.

Application for and issue of reconnaissance licence.

(2) Where the Designated Authority is satisfied that the applicant is a suitable person to carry out reconnaissance activities, the Designated Authority may issue to the applicant, a reconnaissance licence in the prescribed form, for a period not exceeding one year.

(3) Notwithstanding subsection (2), the Designated Authority shall not issue a reconnaissance licence in respect of an area which is subject to an exploration licence or a production licence.

Prohibition
against
drilling
activities
under
reconnaissance
licence.

11. (1) A licensee who holds a reconnaissance licence shall not, by virtue of the issue of the licence, have the right to undertake drilling activities.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$135 000 or to imprisonment for 3 years.

Non-
exclusivity
of reconnaissance
licence.

12. (1) A licensee who holds a reconnaissance licence shall not

(a) by virtue of the issue of the licence, have the right to be issued with an exploration licence or a production licence; and

(b) have the exclusive right to undertake reconnaissance activities,

in respect of the area delimited in the licence.

(2) For the avoidance of doubt, the Designated Authority may grant more than one reconnaissance licence in respect of a delimited area.

Extension
of reconnaissance
licence.

13. (1) A licensee may apply to the Designated Authority for an extension of a reconnaissance licence to undertake additional reconnaissance activities.

(2) The Designated Authority may, at its sole discretion, grant a single extension for a period not exceeding one year

PART IV

Exploration

Invitation
to apply for
exploration
licence.

14. (1) The Designated Authority may invite applications for an exploration licence in respect of a block through the issue of a call for tenders or a call for negotiations.

(2) The Designated Authority shall, in the call for tenders or call for negotiations

(a) specify

(i) the coordinates of the block;

(ii) an exploration period not exceeding 8 years; and

(iii) the phases, if any, of the exploration period; and

(b) provide or invite applicants to offer a work programme which may include provisions for seismic surveys, drilling and expenditure.

(3) The Designated Authority shall not

(a) include a licence area or part of a licence area in the block; or

(b) overlap the block with another block.

(4) The Designated Authority may issue a call for tenders and a call for negotiations at the same time but not in respect of the same block.

(5) Where the Designated Authority issues a call for negotiations, the Designated Authority shall specify the period for which the call remains valid and open to applications.

15. (1) A person who

(a) intends to carry out exploration activities; and

(b) complies with section 8,

*Application
for and issue
of explora-
tion licence.*

may, upon payment of the prescribed fee, apply to the designated authority for an exploration licence, in accordance with the call for tenders or call for negotiations, in respect of the licence.

(2) Where the Designated Authority is satisfied that the applicant is a suitable person to carry out exploration activities, the Designated Authority may issue a written notice to the applicant

(a) regarding his suitability; and

(b) requiring the applicant to submit to the Designated Authority who shall forward for the approval of the Minister responsible for the Environment an environmental impact assessment in respect of any exploration and appraisal activities to be carried out in the area concerned.

(3) The applicant shall submit the environmental impact assessment within 90 days of receipt of the notice of the Designated Authority pursuant to subsection (2).

(4) Notwithstanding subsection (3), an applicant may submit an environmental impact assessment within such longer period as the Designated Authority may permit.

(5) Where the Minister responsible for the Environment approves the environmental impact assessment, the Designated Authority may issue to the applicant, an exploration licence in the prescribed form.

(6) The Designated Authority shall specify in the exploration licence, the exploration period and phases, if any, in accordance with the period and phases, if any, announced by the Designated Authority in the call for tenders or call for negotiations, to which the licence relates.

(7) A licensee who holds an exploration licence shall have the exclusive right to explore for petroleum and undertake appraisal activities in the licence area.

16. (1) The Designated Authority shall specify in an exploration licence, the work programme Work programme.

- (a) stipulated by the Designated Authority; or
- (b) offered by the applicant for the licence and accepted by the Designated Authority,

in the call for tenders or call for negotiations.

(2) A licensee shall complete each commitment of the work programme during the phase to which the commitment relates.

(3) A licensee shall not amend the work programme without the approval of the Designated Authority.

(4) A licensee may, upon payment of the prescribed fee, apply to the Designated Authority for approval to amend a work programme.

(5) The Designated Authority shall not amend the work programme of a licensee unless

- (a) the licensee agrees to the amendment; and
- (b) the Designated Authority is satisfied that there is sufficient evidence to conclude that continued drilling activities in the licence area would not result in a discovery; or
- (c) the amendment would increase the commitments in the work programme.

(6) A licensee who contravenes subsection (3) is guilty of an offence and is liable on summary conviction to a fine of \$135 000 or to imprisonment for 3 years.

17. (1) The Designated Authority shall specify in an exploration licence of a licensee, a guarantee in respect of the performance of the work programme set out in the licence in an amount Guarantee in respect of work programme.

- (a) equivalent to the cost of performing the work programme; and
 - (b) agreed upon by the Designated Authority and the licensee, prior to the issue of the licence.
- (2) The licensee shall provide the Designated Authority with the guarantee
- (a) within 60 days of the effective date of the exploration licence; and
 - (b) in such form as the Designated Authority may approve.
- (3) A guarantee shall remain effective for the duration of an exploration licence.
- (4) Notwithstanding subsection (3), where a licensee completes the work commitments in respect of a phase of a licence, the Designated Authority may permit the licensee to reduce the guarantee by an amount equivalent to the expenses incurred in the performance of the work commitments.
- (5) Where a licensee
- (a) completes the work programme set out in a licence, the Designated Authority shall return the guarantee to the licensee; or
 - (b) fails to perform the whole or part of a work programme, the Designated Authority shall enforce the guarantee.

Extension of
exploration
licence

- 18.** (1) A licensee may
- (a) upon payment of the prescribed fee; and
 - (b) no more than 60 days prior to the expiry of the exploration licence of the licensee,
- apply to the Designated Authority for an extension of the licence.

(2) Where the Designated Authority is satisfied that the extension of the licence is necessary to

- (a) complete the activities specified in an appraisal plan approved by the Designated Authority; or
- (b) locate a market for a discovery of non-associated gas,

the Designated Authority may issue to the licensee, an extension of the licence in the prescribed form and for a specified period.

(3) The Designated Authority shall not issue an extension required for the purpose specified in

- (a) subsection (2)(a), for a period which exceeds the period required for
 - (i) the implementation of the appraisal plan; and
 - (ii) the statement required pursuant to section 21(6); and
- (b) subsection (2)(b), for a period which exceeds 10 years.

(4) The Designated Authority shall specify in the extension of the licence, the licence area to which the extension relates.

(5) The Designated Authority shall not issue an extension in respect of a licence area that is greater than that required for the purpose for which the extension is issued.

19. (1) A licensee shall

- (a) after each phase of an exploration licence, other than the final phase, relinquish 50 per cent of the licence area; and

Relinquish-
ment of area
subject to
exploration
licence.

(b) at the end of the final phase, relinquish any remaining licence area not subject to a production licence.

(2) The licensee shall, prior to relinquishing an area, plug or close off all wells in the area to the satisfaction of the Designated Authority.

(3) A licensee who contravenes subsection (2) is guilty of an offence and is liable on summary conviction to a fine of \$275 000 or to imprisonment for 5 years.

PART V

Discovery, Appraisal and Production

- Discovery. 20. (1) Where a licensee makes a discovery, the licensee shall within
- (a) 24 hours of the discovery, notify the Designated Authority of the discovery; and
 - (b) 7 days of the discovery, submit written particulars of the discovery to the Designated Authority.
- (2) The licensee shall state in the particulars, whether the discovery
- (a) is a commercial discovery;
 - (b) is not a commercial discovery;
 - (c) is not in itself a commercial discovery but in conjunction with another discovery within the licence area, is capable of constituting a commercial discovery; or
 - (d) warrants further appraisal in order to determine whether it is a commercial discovery.

21. (1) Where a discovery warrants further appraisal in order to determine whether it is a commercial discovery, the licensee shall, within 60 days of the date of the submission of the particulars of the discovery pursuant to section 20(1)(b), submit an appraisal plan to the Designated Authority for approval.

Appraisal
plan.

(2) The licensee shall

(a) specify in the appraisal plan, a period not exceeding 2 years during which the work set out in the plan is to be completed; and

(b) complete the work

(i) during the period specified; and

(ii) in accordance with the plan.

(3) The licensee shall not

(a) amend the appraisal plan without the approval of the Designated Authority; and

(b) by virtue of undertaking work pursuant to the plan, be taken to have completed the work programme set out in the exploration licence of the licensee.

(4) A licensee who contravenes subsection (3)(a) is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years.

(5) The Designated Authority may revoke its approval of an appraisal plan where the licensee contravenes subsection (3).

(6) A licensee shall, within 30 days of completing the work specified in an appraisal plan, state whether the discovery

- (a) is a commercial discovery;
- (b) is not a commercial discovery; or
- (c) constitutes, in conjunction with another discovery within the licence area, a commercial discovery.

Declaration
of commercial
discovery.

22. (1) Where a licensee states, pursuant to section 20(2) or 21(6), that a discovery

- (a) is a commercial discovery or constitutes a commercial discovery in conjunction with another discovery in the licence area, the licensee shall immediately
 - (i) apply to the Designated Authority for a production licence; or
 - (ii) relinquish the development area in respect of the discovery, in the event that the licensee does not intend to apply for a production licence; or
- (b) is not a commercial discovery, the licensee shall immediately relinquish the development area in respect of the discovery.

(2) Subsection (1)(b) shall not apply where the Designated Authority gives the licensee written permission to retain the development area until the expiry of the exploration licence of the licensee.

Offer to
apply for
production
licence.

23. (1) The Designated Authority may, through the issue of a call for tenders or a call for negotiations, invite applications for a production licence in respect of a discovery which has been returned to the Crown through the relinquishment of a licence area or the expiry, surrender or cancellation of a licence or otherwise.

(2) The Designated Authority shall provide in the call for tenders or call for negotiations, any information that may assist an applicant to determine whether the development and production of the discovery may be commercially viable.

- 24. (1)** A person may, upon payment of the prescribed fee, apply to the Designated Authority for a production licence in respect of a discovery
- Application for and issue of production licence.
- (a)* declared to be a commercial discovery by the person; or
 - (b)* offered through the issue of a call for tenders or a call for negotiations
 - (i)* in accordance with the call for tenders or the call for negotiations; and
 - (ii)* where the person complies with section 8.

(2) Where the Designated Authority is satisfied that an applicant applying pursuant to

- (a)* subsection (1)(a), has
 - (i)* completed the work programme set out in the exploration licence under which the discovery was made; and
 - (ii)* complied with the requirements of this Act; or
- (b)* subsection (1)(b), is a suitable person to carry out production activities,

the Designated Authority may issue to the applicant, a production licence in the prescribed form for a period not exceeding 25 years.

(3) The Designated Authority shall specify as the licence area in the production licence

- (a)* the development area in respect of the discovery; and
- (b)* where more than one discovery is involved, any area necessary for the joint production of the discoveries.

(4) A licensee who holds a production licence shall have the exclusive right to produce petroleum in the licence area.

Extension of
production
licence.

- 25. (1)** A licensee may
- (a) upon payment of the prescribed fee; and
 - (b) no more than 60 days prior to the expiry of a production licence,

apply to the Designated Authority for an extension of the licence.

(2) Where the Designated Authority is satisfied that the licensee has fully complied with this Act and the development plan submitted under section 26, the Designated Authority may issue an extension to the licensee in the prescribed form.

(3) The Designated Authority may extend a production licence not more than twice, with each extension not exceeding 5 years.

Develop-
ment plan.

26. (1) A licensee shall submit to the Designated Authority for approval, within

- (a) 90 days of the effective date of the production licence of the licensee, a preliminary plan for development and production; and
- (b) the period agreed upon by the licensee and the Designated Authority, a development plan,

in respect of the discovery to which the licence relates.

(2) The licensee shall not commence production activities under the production licence before the development plan is approved.

(3) The licensee may apply to the Designated Authority for an extension of the period for submission of the development plan.

(4) Where the Designated Authority is satisfied that the licensee has shown good grounds for the extension, the Designated Authority may grant the extension for such period as the Designated Authority considers appropriate.

(5) Where the Designated Authority issues an extension of a production licence to a licensee, the licensee shall amend the development plan to take into account

- (a) the production activities to be undertaken under the extension of the production licence; and
- (b) any other changes in circumstances which, in accordance with best industry practice, require changes in the scope, cost or other attribute of the plan,

and submit the amended plan to the Designated Authority for approval.

(6) The licensee shall not commence production activities under the extension of the production licence before the amended plan is approved.

- (7) A licensee shall
- (a) revise a development plan annually to take into account, any changes in circumstances which, in accordance with best industry practice, require changes in the scope, cost or other attribute of the plan; and
 - (b) submit the revisions to the Designated Authority.

(8) Notwithstanding subsection (7), except in the circumstances specified in subsection (5), a licensee shall not, without the approval of the Designated Authority, materially amend a development plan which has been previously approved by the Designated Authority.

(9) A licensee who contravenes subsection (2), (6) or (8) is guilty of an offence and is liable on summary conviction to a fine of \$135 000 or to imprisonment for 3 years.

(10) The Designated Authority may, by written notice to a licensee

- (a) amend the approved development plan of the licensee, where the amendment is necessary for safe, appropriate or efficient production or in the public interest; and
- (b) specify the reason for the amendment.

Decommissioning plan.

27. (1) A licensee shall submit a decommissioning plan to the Designated Authority for approval, together with the development plan to be submitted pursuant to section 26.

(2) The licensee shall

- (a) revise the decommissioning plan annually to take into account any changes in circumstances which in accordance with best industry practice require changes in the scope, cost or other attribute of the plan; and
- (b) submit the revisions to the Designated Authority.

(3) Notwithstanding subsection (2), a licensee shall not, without the approval of the Designated Authority, materially amend a decommissioning plan which has been previously approved by the Designated Authority.

(4) The licensee shall not commence production activities under the production licence before the decommissioning plan is approved.

(5) A licensee who contravenes subsection (3) or (4) is guilty of an offence and is liable on summary conviction to a fine of \$135 000 or to imprisonment for 3 years.

Decommissioning Fund.

28. (1) The Designated Authority and a licensee shall agree upon

- (a) the amount of a Decommissioning Fund; and
- (b) the manner in which and time at which the licensee shall submit contributions to the fund.

(2) The Designated Authority shall establish an interest bearing escrow bank account in a currency agreed upon by the Designated Authority and the licensee for the purpose of depositing contributions to the fund.

(3) The licensee shall, in accordance with the agreement pursuant to subsection (1), submit contributions to the fund to the Designated Authority for deposit into the account.

(4) The licensee shall provide the Designated Authority with a holding company guarantee in respect of any shortfall which may accrue between the size of the Decommissioning Fund and the actual cost of decommissioning operations.

(5) The guarantee referred to in subsection (4) shall be in a form approved by the Designated Authority.

29. Where a licensee of a production licence recovers petroleum from the subsurface pursuant to this Act, the property in the petroleum shall pass to the licensee at the well head.

Property in petroleum passes to licensee at well head.

PART VI

Transfer, Surrender, Suspension and Cancellation of Licence

30. (1) A licensee shall not, without the approval of the Designated Authority, transfer, wholly or partially, the rights and obligations of the licensee under a licence.

Transfer of licence.

(2) A licensee may

(a) within 90 days of a proposed transfer; and

(b) upon payment of the prescribed fee,

apply to the Designated Authority for approval for the transfer.

(3) The Designated Authority shall, within 30 days of receipt of the application, *notify the licensee in writing of the decision to approve or not approve the transfer.*

(4) A licensee who holds an exploration licence or a production licence shall

(a) unless the proposed transfer is to an affiliate

(i) offer the transfer to the Crown and to any person with a percentage interest in the licence, prior to offering the transfer to a third party;

(ii) obtain the approval of any person with a percentage interest in the licence, for a transfer to a third party; and

(b) not make a transfer under this section to a person who is not qualified as an operator or a participant, pursuant to section 8.

(5) *Notwithstanding subsection (4)(b) where a licensee is the operator under a licence, the licensee shall*

(a) not make a transfer under this section to a person who is not qualified as an operator; and

(b) submit with the application for approval to transfer, an application for approval for a change of operator.

(6) A licensee shall ensure that a transfer is

(a) in writing and executed by the licensee and the assignee; and

(b) submitted to the Designated Authority for the Designated Authority to endorse on the transfer, its approval of the transfer.

(7) A licensee shall not, by virtue of a transfer under this section, be relieved of any obligations and liabilities which the licensee incurred prior to the transfer.

(8) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$275 000 or to imprisonment for 5 years.

31. (1) A licensee shall not, without the approval of the Designated Authority, surrender a licence or the whole or a part of a licence area.

Surrender of
licence etc.

(2) A licensee may

(a) within 90 days of a proposed surrender; and

(b) upon payment of the prescribed fee,

apply to the Designated Authority for approval for the surrender.

(3) The Designated Authority shall, within 30 days of receipt of the application, notify the licensee in writing of the decision to approve or not approve the surrender.

(4) The Designated Authority shall not approve a surrender unless a licensee has, to the satisfaction of the Designated Authority

(a) satisfied any monetary obligations incurred before the surrender or made arrangements for the satisfaction of the monetary obligations;

(b) provided for the conservation and protection of the natural resources in the area to be surrendered;

(c) made good any damage caused by petroleum operations to the seabed or subsoil in the area to be surrendered;

- (d) provided information that should have been but was not previously provided to the Designated Authority;
- (e) removed or caused to be removed from the area to be surrendered, all property brought into the area by the licensee or made arrangements with respect to the property; and
- (f) plugged or closed off all wells in the area to be surrendered.

(5) Notwithstanding subsection (4), the Designated Authority may, where it considers appropriate, waive any of the requirements of subsection (4).

(6) Where a licensee surrenders a part of the licence area, the licence shall continue in force in respect of the remainder of the licence area, subject to any modification of the conditions of the licence specified by the Designated Authority in its approval of the surrender.

(7) Where a licensee proposes to surrender a licence, the licensee shall perform or discharge any outstanding obligations under the licence prior to the surrender.

(8) The Designated Authority shall specify the effective date of a surrender.

(9) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$275 000 or to imprisonment for 5 years.

Suspension
of licence
by agree-
ment.

32. The Designated Authority may, by written agreement with a licensee, suspend the licence of the licensee

- (a) for a specified period; and
- (b) on specified terms.

33. (1) The Designated Authority may, by written notice to a licensee, suspend the licence of the licensee where the licensee

Disciplinary power to suspend licence.

(a) fails to comply with

- (i) this Act;
- (ii) a requirement, obligation or other provision contained in any report, plan or programme, approved by the Designated Authority, in relation to the licensee;
- (iii) any guidelines issued, approved or adopted by the Designated Authority; or

(b) breaches a term or condition of the licence.

(2) Where the Designated Authority intends to suspend the licence of a licensee, the Designated Authority shall, prior to the suspension, issue to the licensee, a notice of default which

(a) specifies the default of the licensee;

(b) in the case of a default that is

- (i) capable of remedy, requires the licensee to remedy the default within a specified period; or
- (ii) incapable of remedy, requires the licensee to provide good grounds within a specified period, as to why the licence should not be suspended; and

(c) states the action that the Designated Authority proposes to take where

- (i) the default is not remedied, or
- (ii) good grounds are not provided,

within the specified period.

(3) Where the Designated Authority is satisfied that a licensee has failed to

- (a) remedy a default; or
- (b) provide good grounds as to why the proposed action should not be taken,

the Designated Authority may suspend the licence of the licensee.

(4) The Designated Authority shall specify the effective date of the suspension in the notice.

(5) A licensee shall not, by virtue of a suspension of a licence, be relieved of any obligations and liabilities incurred by the licensee prior to and during the period of suspension.

(6) The Designated Authority may, for the purpose of subsection (3), suspend the licence of a licensee

- (a) for a specified period or until the licensee remedies a default that is capable of remedy; or
- (b) indefinitely.

Suspension
of petroleum
operations
for
emergencies
etc.

34. (1) The Designated Authority may, in the event of a major environmental incident, major hazard, major health and safety incident or an emergency, partially or totally suspend the petroleum operations of a licensee, for a specified period.

(2) A licensee may, in the event of a major environmental incident, major hazard, major health and safety incident or an emergency, partially or totally suspend petroleum operations

- (a) with the approval of the Designated Authority; and
- (b) for a period of time agreed upon by the licensee and the Designated Authority.

(3) Notwithstanding subsection (2)(a), where it is impractical or unreasonable in the circumstances for the licensee to obtain the approval of the Designated Authority for the suspension of the petroleum operations, the licensee

- (a) may suspend the petroleum operations; and
- (b) shall notify the Designated Authority as soon as practicable, of the suspension.

(4) The Designated Authority may extend a period of suspension where necessary.

(5) Where the petroleum operations of a licensee are suspended by virtue of this section, the licensee shall not, by virtue of the suspension, be taken to be in breach of this Act or a term or condition of the licence.

35. Where the petroleum operations of a licensee are partially or totally suspended as a result of a force majeure event, the Designated Authority shall extend the licence for the lesser of the following periods:

Suspension of petroleum operations for force majeure.

- (a) a period which corresponds to the length of time for which the petroleum operations were suspended; or
- (b) 2 years.

36. (1) The Designated Authority may, by written notice to a licensee, cancel the whole or part of the licence where the licensee

Cancellation of licence.

- (a) fails to comply with
 - (i) this Act;
 - (ii) a requirement, obligation or other provision contained in any report, plan or programme approved by the Designated Authority;

- (iii) any guidelines issued, approved or adopted by the Designated Authority; or
 - (b) breaches a term or condition of the licence;
 - (c) knowingly provides false or misleading information or omits to provide material information to the Designated Authority, in respect of the application for the licence or any requirement of this Act;
 - (d) is declared bankrupt or placed into liquidation or where a receiver is appointed; or
 - (e) does not pay an amount payable by him pursuant to this Act, within 90 days from the date on which the amount becomes payable.
- (2) Where the Designated Authority intends to cancel the licence pursuant to subsection (1)(a) or (b), the Designated Authority shall, prior to the cancellation, issue to the licensee a notice of default which
- (a) specifies the default of the licensee;
 - (b) in the case of a default that is
 - (i) capable of remedy, requires the licensee to remedy the default within a specified period; or
 - (ii) incapable of remedy, requires the licensee to provide good grounds within a specified period, as to why the licence should not be cancelled; and
 - (c) states the action that the Designated Authority proposes to take where
 - (i) the default is not remedied; or
 - (ii) good grounds are not provided,
- within the specified period.

(3) Where the Designated Authority is satisfied that a licensee has failed to

- (a) remedy a default; or
- (b) provide good grounds as to why the proposed action should not be taken,

the Designated Authority may cancel the licence.

(4) The Designated Authority shall specify the effective date of the cancellation in the notice.

(5) A licensee shall not, by virtue of a cancellation of a licence, be relieved of any obligations and liabilities incurred by the licensee prior to the cancellation.

PART VII

General Duties of Licensees

37. A licensee shall, in the performance of petroleum operations pursuant to the licence and in respect of any matter related to the operations, adhere to best industry practice.

Best
industry
practice.

38. (1) A licensee shall develop, implement and maintain an environmental management system in respect of the petroleum operations that the licensee proposes to perform.

Environ-
mental duty.

(2) A licensee shall, in the performance of petroleum operations pursuant to the licence and with respect to any matter related to the operations

- (a) comply with any standards, rules or guidelines, issued, adopted or approved by the Designated Authority, in relation to the environment; and

(b) take measures to restore and preserve ecosystems and all natural and physical resources, to protect and enhance living conditions and the health of the population, and to preserve natural monuments and cultural heritage sites.

(3) A licensee shall not undertake a petroleum operation that has the potential to damage the environment, unless the licensee takes all reasonable and practicable measures to prevent or minimise the damage.

(4) Where the licensee proposes to implement a material change to the petroleum operations detailed in an environmental impact assessment approved by the Designated Authority, the licensee shall submit to the Designated Authority for approval, within 90 days of the proposed implementation, a revised environmental impact assessment which takes account of the change.

(5) A licensee who

(a) fails to comply with any prescribed environmental requirements; or

(b) contravenes subsection (1),

is guilty of an offence and is liable on summary conviction to a fine of \$275 000 or to imprisonment for 5 years.

Health and
safety duty.

39. (1) A licensee shall develop, implement and maintain a health and safety management system in respect of the petroleum operations that the licensee proposes to perform.

(2) The licensee shall, in developing the system, take into account the size and nature of the petroleum facility.

(3) The licensee shall ensure, so far as reasonably practicable

(a) the protection of the health, safety and welfare of all personnel and members of the public; and

(b) the safety and security of petroleum operations and facilities.

(4) A licensee shall conduct petroleum operations in a manner to ensure that

(a) the health and safety of personnel and the general public is protected;

(b) equipment is secure and operated safely; and

(c) all personnel receive an appropriate level of safety training.

(5) A licensee who

(a) fails to comply with any prescribed requirements in respect of health and safety; or

(b) contravenes subsection (1),

is guilty of an offence and is liable on summary conviction to a fine of \$275 000 or to imprisonment for 5 years.

40. (1) The licensee shall undertake the development and training of residents in Barbados, where such training shall be for all positions in the petroleum industry including administrative, technical and management positions and where such training shall prepare residents in Barbados to replace positions held by expatriate personnel.

Local
content duty
of licensee.

(2) The licensee shall provide development and training to personnel employed by the Crown or by persons controlled by the Crown who are involved in monitoring, enforcing or undertaking obligations or responsibilities in accordance with this Act.

41. (1) Where a discovery extends into the licence area of two or more licensees or the Designated Authority is of the opinion that two or more licence areas should be developed together in the national interest, the Designated Authority may by written notice require the licensees involved to jointly develop a field, under a unitisation agreement.

Unitisation.

(2) The licensees shall, subject to the approval of the Designated Authority, negotiate the agreement of unitisation.

(3) Where within 90 days of receipt of a notice pursuant to subsection (1), the licensees fail to reach a unitisation agreement, the Designated Authority may instruct the licensees to commence the process for dispute resolution in accordance with section 55.

(4) Where the process for dispute resolution does not produce a result within 120 days of its commencement, the Designated Authority may set the terms for and enforce a unitisation agreement.

(5) Where a discovery extends into the sovereign territory of another State and an agreement on the coordination of exploration and production is made between the Crown and the other State, the Designated Authority may by written notice

- (a) require a licensee whose licence area includes part of the discovery to participate in such coordination; and
- (b) specify the terms and conditions applicable to such coordination.

PART VIII

Decommissioning

Licensee to decommission.

42. (1) Where a licensee permanently ceases to perform petroleum operations in an area pursuant to the licence, the licensee shall

- (a) within the period specified by the Designated Authority; and
- (b) in accordance with the decommissioning plan of the licensee,

decommission any petroleum facility installed in the area for the purpose of performing petroleum operations pursuant to the licence.

(2) For the purpose of subsection (1), a licensee shall, unless the Designated Authority permits otherwise, remove the entire petroleum facility from the area.

(3) Where a licensee decommissions in accordance with this section, the Designated Authority shall

- (a) release to the licensee, from the Decommissioning Fund, such amounts of the fund as are necessary to meet the costs and expenses of the decommissioning operations; and
- (b) retain any amounts that remain in the fund, to the extent that the contributions made by the licensee to the fund have been set off against the tax payable by the licensee pursuant to the *Offshore Petroleum (Taxation) Act, 2007*.

Act 2007-31.

(4) Where a licensee fails to decommission in accordance with this section, the Designated Authority may retain the whole or a part of the Decommissioning Fund.

(5) Notwithstanding subsection (1), where the Crown exercises its right to take over the petroleum operations of the licensee pursuant to section 44 the Designated Authority shall be responsible for decommissioning in respect of any petroleum facility installed for the purpose of performing the petroleum operations pursuant to the licence of the licensee.

(6) A licensee who fails to decommission in accordance with this Act is guilty of an offence and is liable on summary conviction to a fine of \$275 000 or to imprisonment for 5 years.

PART IX

Government Participation

Crown may
require
percentage
interest in
licence.

43. (1) The Designated Authority may require that a percentage interest in an exploration licence or a production licence, not exceeding 25 per cent be reserved for a state entity.

(2) The Designated Authority may specify the percentage interest in a call for tenders or a call for negotiations in respect of the licence, or require a person who makes an application in response to such a call, to offer the percentage interest.

(3) The Designated Authority

(a) may attach to the percentage interest, any of the following conditions:

(i) the percentage interest is a carried interest in whole or in part;

(ii) the carried interest is subject to repayment in whole or in part;

(iii) the percentage interest is subject to payment of accrued expenditure in whole or in part; and

(b) shall specify the conditions attached to the percentage interest in the call for tenders or call for negotiations.

(4) A state entity for which a percentage interest has been reserved shall, during the period for the submission of applications for the licence to which the reservation relates, notify the Designated Authority of whether the reservation is to be exercised or declined.

(5) Where the state entity fails to notify the Designated Authority pursuant to subsection (4), the reservation shall be taken to have been declined.

(6) Notwithstanding subsection (5), where a reservation in respect of a percentage interest in an exploration licence has been exercised, the exercise of the reservation shall remain valid for a production licence issued in respect of a discovery made under the exploration licence.

(7) Where a percentage interest has been reserved for a state entity, the percentage interest and any conditions in respect of the interest shall be specified in the exploration licence or production licence.

(8) Where a percentage interest has been reserved in an exploration licence, the same percentage interest shall apply to a production licence issued in respect of a discovery made under the exploration licence.

(9) Where a state entity which receives a percentage interest is required to repay the whole or a part of a carried interest, such repayment shall be made from 25 per cent of the net income of the state entity from production in the licence area.

(10) A state entity which receives a percentage interest shall, unless the interest is a carried interest, contribute to expenditures under an approved work programme in the percentage specified in the exploration licence or production licence to which the interest relates.

(11) Where the state entity seeks to transfer the interest, the following rules shall apply:

- (a) where the interest is a carried interest, the interest shall be offered to other licensees for the consideration of one Barbadian dollar, prior to offering the interest to a third party;
- (b) for the purposes of paragraph (a), where two or more persons in addition to the state entity are licensees, a portion of the interest shall be offered to each licensee equivalent to the proportion of the carried expenditure incurred by the particular licensee; and

- (c) where the interest is a carried interest and is subject to repayment, a condition of the transfer shall be that the transferee accepts the obligation to make payment of any and all remaining repayments.

(12) For the purpose of this section "carried interest" means a percentage interest in a licence in respect of which the share of the person with the interest, of the costs, expenses, obligations and liability in damages accrued under the licence, is borne by the other persons with an interest in the licence.

Crown
takeover.

44. (1) Where the licence of a licensee expires or is surrendered or cancelled or the use of the licence area is terminated permanently, the Crown shall have the right to take over the petroleum operations of the licensee.

(2) Where the Crown, by written notice to the licensee, exercises its right pursuant to subsection (1), the licensee shall negotiate with the Crown for the transfer of petroleum facilities which the Crown seeks to retain in accordance with the right specified in subsection (1).

(3) Where within 120 days of receipt of the notice by the licensee the Crown and the licensee fail to reach an agreement as required by subsection (2), the Crown or the licensee may by written notice to the other party, commence the process for dispute resolution pursuant to section 55.

(4) The Crown may assign the right obtained in accordance with subsection (1) to a person qualified in accordance with section 8.

Domestic
Supply.

45. (1) Where the Designated Authority considers it necessary in order to satisfy the domestic requirements of Barbados for petroleum, the Designated Authority may, by written notice to a licensee, require the licensee to sell to the Crown or a government entity, at international market rates, the whole or a part of the petroleum recovered by the licensee.

- (2) The Designated Authority shall
 - (a) give the written notice referred to in subsection (1), no less than 6 months prior to the date on which the licensee is required to commence the supply of the petroleum; and
 - (b) include in the notice, the time at which and location to which the licensee is required to deliver the petroleum.
- (3) For the purpose of subsection (1), international market rates shall be determined in accordance with section 51(1)(c).
- (4) Notwithstanding subsection (3), where the Designated Authority requires the licensee, pursuant to subsection (1), to supply natural gas or gas liquids, the rate shall be agreed upon by the Designated Authority and the licensee, in a relevant gas sales agreement.
- (5) Where within 90 days of receipt of the notice by the licensee, the Designated Authority and the licensee fail to reach an agreement pursuant to subsection (3), the Designated Authority or the licensee may, by written notice to the other party, commence the process for dispute resolution pursuant to section 55.
- (6) The Designated Authority may, by written notice to the licensee, reduce, suspend or cancel the requirement for the licensee to supply petroleum pursuant to subsection (1), for a specified period or until the Designated Authority gives written notice to the licensee to resume the supply.
- (7) The Designated Authority shall determine the quantity of petroleum due by a licensee by pro rating the quantity of petroleum required across each production licence under which petroleum is recovered, in accordance with the amount of petroleum produced under each licence.

PART X

Fees And Royalties

Area Fee. **46. (1)** A licensee who holds an exploration licence or a production licence shall pay to the Designated Authority, the prescribed annual area fee.

(2) The licensee shall make

(a) the first payment of the annual area fee, within 30 days of the date of commencement of the licence; and

(b) payments due thereafter, within 30 days of the anniversary of the first payment.

Coastal and marine environmental research fee. **47. (1)** A licensee who holds an exploration licence or a production licence shall pay to the Designated Authority an annual coastal and marine environment research fee in an amount no less than the prescribed amount.

(2) Subject to subsection (1), where in the call for tenders or call for negotiations in respect of the licence, the Designated Authority

(a) specifies; or

(b) accepts an offer of the licensee in respect of,

an annual coastal and marine environment research fee, the licensee shall pay an annual coastal and marine environment research fee in an amount no less than the amount specified by the Designated Authority or offered by the licensee and accepted by the Designated Authority, pursuant to the call for tenders or call for negotiations.

(3) The licensee shall annually increase the annual coastal and marine environment research fee by a rate equivalent to the United States Industrial Goods Producer Price Index plus 3 per cent.

- (4) The licensee shall make
- (a) the first payment of the annual coastal and marine environment research fee, within 30 days of the date of commencement of the licence; and
 - (b) payments due thereafter, within 30 days of the anniversary of the first payment.

48. (1) A licensee who holds an exploration licence or a production licence shall incur a minimum annual training expenditure in an amount no less than the prescribed amount. Minimum annual training expenditure.

(2) Subject to subsection (1), where in the call for tenders or call for negotiations in respect of the licence, the Designated Authority

- (a) specifies; or
- (b) accepts an offer of the licensee in respect of,

a minimum annual training expenditure, the licensee shall incur a minimum annual training expenditure in an amount no less than the amount specified by the Designated Authority or offered by the licensee and accepted by the Designated Authority, pursuant to the call for tenders or call for negotiations.

(3) The licensee shall annually increase the minimum annual training expenditure by a rate equivalent to the United States Industrial Goods Producer Price Index plus 3 per cent.

49. (1) A licensee who holds a production licence shall pay to the Designated Authority, a royalty in respect of petroleum recovered in the licence area, at Licensee to pay royalty.

- (a) the prescribed rate; or

(b) the negotiated rate, where pursuant to a call for negotiations in respect of the licence, a rate other than the prescribed rate is negotiated with the Designated Authority.

(2) Notwithstanding subsection (1), where at the time that the licensee was issued with

(a) the exploration licence under which the licensee made the discovery which led to the issue of the production licence of the licensee; or

(b) a production licence pursuant to a call for tenders or a call for negotiations,

a rate different from that prescribed pursuant to subsection (1) was applicable in respect of the payment of royalty, the licensee shall pay royalty at the rate that was applicable at the time that the licensee was issued with

(i) the exploration licence; or

(ii) the production licence pursuant to the call for tenders or call for negotiations.

(3) Notwithstanding subsections (1) and (2), a licensee shall not pay a royalty in respect of

(a) petroleum which, in accordance with any prescribed requirements, is flared or vented;

(b) immaterial amounts of petroleum which are unavoidably lost; and

(c) petroleum which is utilised by the licensee for the purpose of testing activities which the licensee is authorised to carry out under the production licence.

- (4) A licensee shall within 30 days after the end of each quarter
- (a) remit payment of the royalty; and
 - (b) *submit to the Designated Authority, a statement which shall include the following information in respect of that quarter:*
 - (i) details of the quantity of petroleum recovered;
 - (ii) details of the price of the petroleum;
 - (iii) the royalty payable; and
 - (iv) details of any quantity of petroleum in respect of which, pursuant to subsection (3), royalty is not payable.

(5) Where a licensee fails to pay the royalty by the date specified in subsection (4), the licensee shall pay interest on the fee at a rate of 25 per cent of one per cent of the outstanding fee per day for each day that the payment remains outstanding.

- (6) Interest shall be
- (a) assessed at the time the licensee remits payment for the outstanding royalty; and
 - (b) paid within 30 days of the assessment.

(7) Section 51 shall apply for the purpose of calculating the royalty payable in respect of petroleum recovered.

50. (1) The Designated Authority may, by written notice within 90 days prior to the date on which a payment of a royalty becomes due, require the licensee to pay the whole or a part of the royalty in kind.

Payment of
royalty in
kind.

- (2) The Designated Authority shall specify in the notice
- (a) the percentage of the royalty to be paid in kind;
 - (b) the period for which the percentage shall be paid in kind; and
 - (c) the time at which and the location to which the licensee is required to deliver the petroleum.

(3) The Designated Authority shall, where the licensee so demands, reimburse the licensee in respect of all reasonable fees incurred in the transportation, processing and storage of the petroleum delivered at the request of the Designated Authority pursuant to subsection (1).

Ascertain-
ment of
value of
petroleum.

51. (1) The following rules shall apply for the purpose of determining the value of crude oil:

- (a) the value of the crude oil recovered shall be determined at the well head;
- (b) the price of the crude oil recovered shall be the market price applicable to direct sales of the crude oil to third parties who are independent from the licensee, less the fees for transportation of the crude oil from well head to the point of sale; and
- (c) in the absence of a price applicable to direct sales of crude oil to independent third parties in accordance with paragraph (b)
 - (i) the price of the crude oil recovered shall be the published price in an index which utilises the reference price of crude oil as quoted on either the Rotterdam, Singapore or NYMEX markets or an equivalent reference price, adjusted for transportation and quality; and
 - (ii) the Designated Authority and the licensee shall agree on the relevant index and reference price to be utilised pursuant to sub-paragraph (i).

(2) The following rules shall apply for the purpose of determining the value of natural gas and gas liquids:

- (a) the value of the natural gas or gas liquids recovered shall be determined at the point of delivery which shall be agreed between the Designated Authority and the licensee;
- (b) the price of the natural gas or gas liquids recovered shall be the market price applicable to direct sales of the natural gas or gas liquids to third parties who are independent from the licensee, less the fees for transportation to the point of delivery;
- (c) in the absence of a price, in accordance with paragraph (b)
 - (i) the price of the natural gas or gas liquids recovered shall be the price published in an index which utilises either the Henry Hub, National Balancing Point, or Zeebrugge Hub reference price or an equivalent reference price, adjusted for transportation to the point of delivery; and
 - (ii) the Designated Authority and the licensee shall agree on the relevant index and reference price to be utilised pursuant to sub-paragraph (i).

PART XI

Miscellaneous

52. (1) All data, including well logs, maps, magnetic tapes, cores, samples and any other geological and geophysical information obtained by a licensee as a result of the activities of the licensee under a reconnaissance licence, exploration licence, or production licence shall remain the property of the Crown.

Data, and
confidenti-
ality.

(2) A licensee shall submit to the Designated Authority, as soon as practicable after it becomes available to the licensee, any data referred to in subsection (1).

(3) Unless otherwise specified in this Act, the licensee shall have a royalty free licence to use any data referred to in subsection (1) in connection with petroleum operations for the duration of the reconnaissance licence, exploration licence or production licence.

(4) Notwithstanding subsection (3), unless otherwise specified in this Act, a licensee shall keep the data referred to in subsection (1) confidential.

(5) Notwithstanding subsection (4), a licensee may, with the approval of the Designated Authority, during the term of a reconnaissance licence, exploration licence or production licence, disclose all or any part of the data referred to in subsection (1) to a third party.

(6) Where the licensee intends to make a disclosure pursuant to subsection (5), the licensee and the third party shall execute an agreement of confidentiality in respect of the data.

(7) Unless otherwise specified in this Act, the Designated Authority shall keep the data referred to in subsection (1) confidential for a period of five years from the date the data is acquired.

Records.

53. (1) A licensee shall make and retain accurate and complete records in respect of any matter related to the activities of the licensee under a licence.

(2) A licensee shall ensure that all samples obtained in relation to the activities of the licensee under a licence, are clearly marked and stored.

(3) Unless otherwise specified in this Act, the licensee shall retain all records and samples for 6 years from the year in which such records were first created or the samples obtained.

(4) Unless otherwise specified by the Designated Authority, original copies of all records shall be kept in Barbados.

54. (1) The Designated Authority shall be responsible for the enforcement of this Act. Investigation and enforcement.

(2) The Designated Authority may designate certain persons on the staff of the Designated Authority for such periods as the Designated Authority considers appropriate, to be petroleum facility inspectors for the purpose of this Act.

(3) A petroleum facility inspector may with or without notice, for the purpose of carrying out duties under this Act, enter any petroleum facility and remain there as long as is necessary provided in making such entry the petroleum facility inspector complies with the health and safety management system of the licensee.

(4) A licensee shall make all offices, sites, facilities, and records available for inspection and testing by petroleum facility inspectors.

(5) A person who

(a) makes or furnishes any statement required to be made or furnished by this Act, which the person knows or has reasonable cause to believe to be false in any material particular; or

(b) wilfully obstructs or impedes a petroleum facility inspector in

(i) the exercise of any of the powers; or

(ii) the performance of any of the duties, conferred or imposed upon the person by this Act

is guilty of an offence and is liable on summary conviction to a fine of \$50 000 or to imprisonment for 2 years.

55. (1) Any question or dispute arising under this Act shall be resolved by mediation pursuant to subsection (2). Dispute resolution process.

(2) For the purpose of subsection (1)

(a) the parties may agree on the appointment of a mediator; or

(b) where the parties cannot agree on a mediator and

- (i) the Designated Authority is not a party to the dispute, either party may apply to the Designated Authority for the appointment of a mediator; or
- (ii) the Designated Authority is a party to the dispute, subsection (3) shall apply.

(3) Where a question or dispute is not resolved in accordance with subsection (1) or (2) within 60 days, either party or the Designated Authority may refer the matter to arbitration.

(4) A question or dispute which is required as a result of subsection (3) to be determined by arbitration shall be referred to the determination of two arbitrators, one to be appointed by each party to the dispute.

(5) The arbitrators appointed pursuant to subsection (4) shall select an umpire before entering upon the matters submitted to them for determination.

(6) Where the arbitrators fail to agree, the umpire appointed pursuant to subsection (5) shall resolve the question or dispute.

(7) The decision of such arbitrators or the umpire shall be final and binding on the parties.

Cap 110. (8) The *Arbitration Act* shall, subject to any necessary modifications, apply to arbitration pursuant to this section.

Administra-
tive
penalties.

56. (1) Where a licensee contravenes this Act, the Designated Authority may, by written notice to the licensee, impose on the licensee, such administrative penalty as may be prescribed in respect of the contravention.

(2) Where the contravention is of a continuing nature, the Designated Authority may impose an additional administrative penalty by way of a daily penalty for every day the contravention continues from the date of the notice, until the contravention is remedied.

(3) An administrative penalty may be recovered as a debt due to the Crown in civil proceedings before a Magistrate for District "A", notwithstanding that the amount may exceed the monetary limit of the jurisdiction of the magistrate.

(4) Where an administrative penalty has been imposed in relation to a particular act or default, the same act or default shall not be made the subject of proceedings for a criminal offence under this Act and where proceedings for a criminal offence under this Act have been brought in relation to a particular act or default, an administrative penalty shall not be imposed for the same act or default.

57. (1) The Designated Authority may make Regulations, for giving effect to this Act.

Power to
make
Regulations.

(2) Without prejudice to the generality of subsection (1), the Designated Authority may make Regulations in respect of

(a) the forms to be used and fees to be paid; and

(b) the administrative penalties to be imposed,

pursuant to this Act.

58. The enactment set out in column 1 of the *Schedule* is amended in the manner specified opposite thereto in column 2 of the *Schedule*.

Conse-
quential
amend-
ments.
Schedule.

59. This Act binds the Crown.

Act binds
the Crown.

60. This Act shall come into operation on a day to be fixed by Proclamation.

Commence-
ment.

SCHEDULE

(Section 58)

Column 1	Column 2
<i>Enactments</i>	<i>Amendments</i>
<p><i>Petroleum Winning Operations Act, Cap. 281.</i></p>	<p>1. In section 2,</p> <p>(a) in subsection (1), delete the definition of "submarine area"; and</p> <p>(b) in subsection (3), delete the words "or the submarine area".</p> <p>2. Insert after section 2, the following section:</p> <p style="margin-left: 40px;">"Applica- tion of Act. 2A. This Act applies to activities for and associated with the search for and recovery of petroleum undertaken on the onshore area of Barbados."</p> <p>3. In section 3,</p> <p>(a) in subsection (1), delete the words "within the submarine area and" and substitute the words "within the onshore area of"; and</p> <p>(b) in subsection (2), delete the words "within the submarine or" and substitute the words "within the onshore of".</p> <p>4. Delete section 5.</p> <p>5. In section 6, in subsection (1), delete the words "the submarine area or".</p>