

Petroleum (Exploration and Exploitation) Act [Cap 148]

LAWS OF FIJI

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CHAPTER 148

PETROLEUM (EXPLORATION AND EXPLOITATION)

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*Acts Nos. 14 of 1978, 12 of 1979,
17 of 1985*

AN ACT TO MAKE PROVISION RELATING TO THE EXPLORATION FOR AND EXPLOITATION OF PETROLEUM RESOURCES AND FOR PURPOSES CONNECTED THEREWITH

[6 October 1978]

PART I-PRELIMINARY

Short title

1. This Act may be cited as the Petroleum (Exploration and Exploitation) Act.

Interpretation

2. In this Act, unless the context otherwise requires-

"approved" means approved by the Minister;

"block" means a block constituted as provided in subsection (2) of section 5;

"casinghead petroleum spirit" means any petroleum or liquid hydrocarbons obtained from natural gas by separation or by any chemical or physical process;

"construct" includes "place" and construction has a corresponding meaning;

"continental shelf" means the seabed and subsoil of those submarine areas adjacent to the coasts of the islands of Fiji, but beyond the territorial limits of Fiji, to a depth of two hundred metres below the surface of the sea, or, beyond that limit, to where the depth of the superjacent waters admits of exploitation of the natural resources of those areas;

"dealing" means any transaction of whatsoever nature by which any legal or equitable interest in or affecting an existing or future licence is or may be created, transferred, assigned, affected or otherwise dealt with, whether directly or indirectly;

"designated area" means an area designated under the provisions of section 3 of the Continental Shelf Act;
(*Cap. 149.*)

"Director" means the Director of Mines;

"discovery block" means, for the purpose of sections 22 and 23, a block which has been nominated under section 22;

"document" includes any map, book, record or writing;

"exploration licence" means a licence to explore for petroleum granted under the provisions of section 16;

"good oil-field practice" means all those things that are generally accepted as good and safe in the carrying on of exploration for petroleum, or in operations for the recovery of petroleum, as the case may be;

"holder" in relation to an exploration licence, production licence or pipeline licence means the person whose name is for the time being shown in the appropriate Register as being the holder of such licence;

"inspector" means any person designated by the Minister under the provisions of section 7 and includes the Director;

"licence" means and includes any exploration licence, production licence or pipeline licence granted under the provisions of this Act; "licensed area" means any area the subject of a licence granted under the provisions of this Act;

"location" means a block or blocks declared by the Minister to be a location under the provisions of section 23;

"Minister" means the Minister responsible for petroleum exploitation matters;

"offshore-land" means and includes any land situated below ordinary high-water-mark;

"onshore-land" means and includes any land situated above the ordinary high-water-mark;

"petroleum" means-

(a) any naturally occurring hydrocarbon, whether in a liquid or solid state;

(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 hydro whether in a gaseous, liquid or solid state, and one or the following, that is to say, hydrogen sulphide, helium and carbon dioxide, and includes any petroleum as defined in paragraphs (a), (b) or (c) that has been returned to a natural reservoir;

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

"pipeline" means a pipe or system of pipes that is used for conveying petroleum; and includes all structures for protecting or supporting a pipeline and all loading terminals, works and buildings and all fittings, pumps, tanks, appurtenances and appliances used in connection with a pipeline but does not include-

(a) a pipeline that is used-

(i) for returning petroleum to a natural reservoir;

(ii) for conveying petroleum for use for the purposes of petroleum exploration operations or operations for the recovery of petroleum;

(iii) for conveying petroleum that is to be flared or vented; or

(iv) for conveying petroleum from a well-head to a terminal station without passing through another terminal station, or for the collection of petroleum, within the area of the production licence in which it is produced or recovered;

(b) a pipeline constructed under the authority of a permit issued under the provisions of the Petroleum Act;

(Cap. 190)

(c) a pipeline constructed or to be constructed by the Crown; or

(d) a pipeline constructed or to be constructed on land used for residential, business, agricultural, commercial or industrial purposes, designed for use solely for the residential, business, agricultural, commercial or industrial purposes carried on that land and situated wholly within the boundaries of that land;

"pipeline licence" means a licence granted under the provisions of **38**;

"production licence" means a licence to carry out operations for the recovery of petroleum granted under the provisions of section **26**;

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

"secondary line" means any pipe or system of pipes used for any of the purposes referred to in sub-paragraphs (i), (ii), (iii) or (iv) of paragraph (a) 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;

"terminal station" means a pumping station, tank station or valve station declared by the Minister by notice in the Gazette to be a terminal station for the purposes of this Act;

"valve station" means an 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;

"water line" means a pipe or system of pipes for conveying water in connection with petroleum exploration operations or operations for the recovery of petroleum;

"well" means a hole in the earth or in the seabed or subsoil made by drilling, boring or any other means in connection with exploration for petroleum or operations for the recovery of petroleum, but does not include a seismic shot hole;

"well-head", in relation to any petroleum, is such valve station as is agreed between the holder of a production licence and the Minister within such reasonable period as may be allowed by

the Minister or in default of such agreement as may be reasonably determined by the Minister as being that well-head;

"well-head value", in relation to any petroleum, is such amount as is agreed between the holder of the production licence and the Minister as being the market value of such petroleum at the well-head or in default of such agreement within three months or such further period as the Minister may reasonably allow, such amount as may be reasonably determined by the Minister as being that value.

Reservation of petroleum resources to the Crown

3. All petroleum in or under all lands within any designated area of whatsoever ownership or tenure and in whosoever possession or enjoyment they may be, are, and shall be deemed always to have been, the property of the Crown.

Rights of Crown to explore for and exploit petroleum resources

4.-(1) Subject to the provisions of Part V, the Crown either alone or in conjunction with any other person shall have full liberty at all times to explore for or carry out any operations for the recovery or conveyance of petroleum on or under any lands within a designated area which are not the subject of an exploration licence or production licence granted under the provisions of this Act.

(2) In addition to its rights under the provisions of subsection (1), the Crown either alone or in association with or through the agency of any other person shall have the full right and liberty at all times to carry out petroleum exploration operations in the course of any scientific investigation and for that purpose to enter upon any lands within a designated area whether such lands are the subject of any licence granted under the provisions of this Act or not:

Provided that all such operations shall be carried out in such a manner as to avoid any unreasonable interference with any other operations being lawfully carried out by any other person by way of exploration for, recovery or conveyance of, any mineral, whether petroleum or not, or by way of construction or operation of a pipeline.

(3) The rights conferred upon the Crown under the provisions of subsections (1) and (2) may only be exercised by the Minister or any person duly authorised by him on that behalf.

Graticulation of earth's surface and constitution of blocks

5.-(1) For the purpose of this Act, the surface of the earth shall be deemed to be divided into graticular sections each of which is bounded-

(a) by portions of two meridians of longitude that are separated by six minutes of longitude from each other and are each separated by six minutes, or any multiple of six minutes, of longitude from the meridian of Greenwich;

(b) by portions of two parallels of latitude that are separated by six minutes of latitude from each other and are each separated by six minutes, or any multiple of six minutes, of latitude

from the Equator.
(Amended by Act 12 of 1979, s. 2.)

(2) For the purpose of this Act each such graticular section or any part thereof that is within a designated area shall constitute a block.

Reservation of blocks

6.-(1) The Minister may by notice in the Gazette declare any block or blocks specified in such notice, not being a block or blocks in respect of which an exploration licence or production licence is in force, to be a reserved area over which no application for an exploration licence may be made except in accordance with the provisions of subsection (2).

(2) The Minister may call for tenders for the right to explore for and exploit the petroleum resources in the whole or any part of any reserved area under the provisions of subsection (1) and may grant an exploration licence to any person on such terms and conditions, whether in accordance with the provisions of this Act or not, as the Minister may think fit but, save as varied by any such terms and conditions, the provisions of this Act shall be applicable to any such exploration licence.

Inspectors

7. Such persons as may be designated by the Minister in writing for that purpose shall be inspectors for the purposes of this Act.

Powers of inspectors

8.-(1) An inspector, at all reasonable times by day or by night but so as not to unreasonably impede or obstruct any work in progress-

(a) shall have access to any part of any designated area and to any structure, vessel, aircraft or building in that area that, in his opinion, has been, is being or is to be used in connection with petroleum exploration operations, operations for the recovery of petroleum, or operations connected with the construction or operation of a pipeline in that area;

(b) may inspect, examine and test all boreholes and wells and any plant, equipment, buildings and other things that, in his opinion, have been, are being or are to be used in that area in connection with any of such operations;

(c) may inspect and check the accuracy of all appliances, weights, measurements, records, maps and plans which are kept by any person in connection with any such operations;

(d) may inspect all samples of strata, petroleum or water required to be kept under the provisions of this Act;

(e) may enter any structure, vessel, aircraft, building or place in that area, in which, in his opinion, there are any documents relating to any of such operations and may inspect, take extracts and make copies of any of those documents;

(f) by order in writing, may direct that any such operations shall be suspended until such arrangements have been made as are in his opinion necessary to prevent-

- (i) danger to life or property;
 - (ii) unreasonable interference with navigation or fishing;
 - (iii) pollution of any water-well, spring, stream, river, lake, reservoir, estuary or harbour, the high or territorial seas or shoreline by petroleum or mud or any other fluid, gas or substance which might contaminate the sea; water or shoreline or cause harm or destruction to marine life;
- (g) may arrest without warrant any person whom he may find, or whom he reasonably suspects of having committed, any offence against the provisions of this Act and the person arrested shall be taken with as little delay as possible to the nearest police station to be dealt with according to law.

(2) Every person who is the occupier or person in charge of any building, structure or place or is the person in charge of any ship, aircraft or equipment referred to in subsection (1) shall provide an inspector with all reasonable facilities and assistance for the effective exercise of his powers under the provisions of this section.

Powers of Director, etc., to require information to be furnished

9.-(1) If the Director or any inspector has reason to believe that any person is capable of giving any information or producing any documents relating to petroleum exploration operations, operations for the recovery of petroleum or operations connected with the construction or operation of a pipeline in a designated area, he may, by notice in writing served on that person, require that person-

- (a) to furnish him in writing, within such period and in such manner as may be specified in such notice, any such information; or
- (b) to attend before him or such other person as is specified in such notice, 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 such notice.

(2) No person shall be excused from furnishing any information, answering any question or producing any document when required to do so under the provisions of this section on the ground 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 any penalty, but any information so furnished or his answer to any such question shall not be admissible in evidence against him in any proceedings other than any proceedings against him for any offence under the provisions of section **92**.

(3) The Director or any inspector may administer an oath to a person required to attend before him under the provisions of subsection (1) and may examine that person on oath.

Compliance with Companies Act

10.-(1) No licence shall be granted under the provisions of this Act to any company incorporated outside Fiji unless such company has first complied with the provisions of any Act for the time being in force relating to the registration of foreign companies.

(2) Any licence granted under the provisions of this Act to any incorporated company may be cancelled by the Minister if such company fails to comply in any material respect with any of the provisions of any Act for the time being in force relating to companies which may be applicable to such company.

Power of attorney

11. On payment of the prescribed fee the holder of any licence granted under the provisions of this Act may authorise and appoint by power of attorney any person to act for him or on his behalf in respect of any share or interest in such licence and a certified or duly attested duplicate copy of such power of attorney shall be filed with the Director.

Accredited agent

12.-(1) Every partnership or company which applies for a licence under the provisions of this Act shall at the time of such application register at the office of the Director the name and address of an accredited agent residing in Fiji, and such agent shall, when registered, be personally responsible under the provisions of this Act for all matters, acts and omissions in connection with such licence in the same manner as if such licence were granted in his name as his own property.

(2) If at any time any such partnership or company revokes the registration of its accredited agent, it shall register some other person as its accredited agent.

(3) A registered accredited agent may at any time resign his appointment by giving notice in writing to the Director, but such resignation shall not take effect until the expiration of forty-eight hours after the receipt of such notice by the Director.

(4) Within forty-eight hours after receipt of notice from the Director of the fact that its registered accredited agent has resigned, the partnership or company in question shall register some other person as its accredited agent.

(5) Nothing in this section shall be deemed to relieve a company or the members of a partnership of any obligations imposed under the provisions of this Act in regard to any licence held by such company or partnership.

Deposits

13.-(1) As a guarantee for the due performance of any obligation imposed by or under the provisions of this Act or of any licence granted thereunder, the Director may require any person, either on first making application for a licence or at any time during the currency thereof, to deposit with him such sum, or such security in a like amount, as may be prescribed, and if such person fails to make such deposit within thirty days or such further time as the Director may specify, the application may be refused or the licence suspended or cancelled.

(2) Where, after due notice, a person has failed to meet any obligation imposed upon him by or under the provisions of this Act or of any licence granted thereunder, the Director may take such steps as he shall deem practicable to fulfil such obligation and, for such purposes, may expend from any deposit whatsoever made by that person such sum as he shall consider reasonable. Any expense incurred by the Director in so doing shall be a lawful deduction from such deposit.

(3) Where any deposit or portion thereof has been expended in accordance with the provisions of subsection (2), the Director may by notice in writing require the depositor to deposit, within such time as the Director may specify in such notice, a further sum equal to the amount so expended. Failure to do so within the time so specified shall render any licence held by the depositor under the provisions of this Act liable to suspension or cancellation.

(4) Upon the cancellation of any licence in respect of which any sum has been deposited with the Director, the person by whom such sum was deposited or in whom the right of refund has been vested by transfer, may make application in writing to the Director for the refund of such deposit or balance thereof and the Director may authorise such refund to be made:

Provided that-

(a) the Director may withhold such refund for such time as he may think fit so that he may make any investigations he considers desirable into the obligations of the person entitled to such refund; and

(b) such refund shall be without prejudice to any claim or proceedings existing or which may arise through the breach by the holder of such licence or by his servants or agents of any of the provisions of this Act.

(5) Upon the transfer of any licence the right to a refund of any sum deposited under the provisions of this section shall be vested in the transferee.

Government officers prohibited from acquiring rights

14. No public officer shall knowingly acquire or hold any direct or indirect right or interest under any licence under the provisions of this Act and any document or dealing purporting to confer any such right or interest on any such officer shall be null and void:

Provided that, with the permission of the Chairman of the Public Service Commission, a person temporarily employed by the Government may retain any such right or interest acquired prior to accepting Government employment.

PART II-EXPLORATION LICENCES

Application for exploration licence

15.-(1) Any person desirous of exploring for petroleum in any part of a designated area may apply to the Minister for the grant of an exploration licence under the provisions of this Act.

(2) Every application for an exploration licence shall be lodge with the Director and shall-

(a) be in writing in the prescribed form addressed to the Minister;

(b) be accompanied by the prescribed fees;

(c) be in respect of not more than seventy blocks;

(d) be accompanied by particulars of-

(i) the proposals of the applicant for work and expenditure in respect of the blocks specified in the application;

(ii) the technical qualifications of the applicant and his employees;

(iii) the technical advice available to the applicant;

(iv) the financial resources of the applicant;

(v) such other matters that the applicant wishes to be considered by the Minister.

(3) The blocks specified in an application for an exploration licence shall be blocks that-

(a) constitute a single area; and

(b) are such that each such block has a side in common with at least one other block specified in the application.

(4) The Director may, and if so directed by the Minister shall, by notice in writing require the applicant to furnish within the time specified in such notice such further information in writing in connection with the application as in the opinion of the Director or the Minister is required for the proper consideration of the application and if such information shall not have been furnished within the time specified in the notice the application shall unless the Minister otherwise declares be deemed to have lapsed and become void.

Grant of exploration licence

16. Subject to the provisions of this Act and to any terms and conditions not inconsistent therewith that he may think fit the Minister may grant an exploration licence in respect of the whole or any part of the area applied for unless the provisions of section **15**:

Provided that an exploration licence may not be granted in respect of any block or blocks which are already the subject of an exploration licence or production licence previously granted under the provisions of this Act.

Rights conferred by exploration licence

17. Subject to the provisions of this Act and in accordance with the terms and conditions to which such licence is subject, the holder of an exploration licence shall have 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 licensed area.

Term of exploration licence

18. Unless previously cancelled or surrendered under the provisions of this Act, an exploration licence shall remain in force-

(a) in the case of a licence granted other than by way of renewal, for a period of five years commencing on the day from which such licence has effect; and

(b) in the case of a licence granted by way of the renewal of such a licence, for a period of three years commencing on the day after the day on which the last previous exploration licence in respect of the block or blocks specified in the exploration licence so granted ceases to have effect.

Renewal of exploration licence

19.-(1) Subject to the provisions of section **20**, the holder of an exploration licence who shall have performed and observed all of the terms, covenants and conditions thereof, may, upon payment of the prescribed fees, apply to the Minister in the prescribed form for and shall be granted the renewal of the licence in respect of such blocks the subject of the licence as are specified in the application.

(2) An application for renewal of an exploration licence shall be lodged with the Director not less than thirty days before the expiration of such licence:

Provided that the Minister may for reasons that he considers sufficient authorise the Director to receive an application for the renewal of an exploration licence less than thirty days before, but not in any case after, the date of expiration of the licence.

Application for renewal to be in respect of reduced area

20.-(1) The number of blocks in respect of which an application for the renewal of an exploration licence may be made shall not exceed the number calculated as follows:-

(a) where the number of blocks in respect of which the expiring licence is in force is an even number-one-half of that number; or

(b) where the number of blocks in respect of which the expiring licence is in force is an odd number-one-half of the next highest number that is divisible by two.

(2) A block that is, or is included in, a location and in respect of which the expiring

exploration licence is in force, shall be disregarded for the purpose of making a calculation under the provisions of subsection (1).

(3) The blocks specified in an application for the renewal of exploration licence shall be blocks that-

(a) constitute a single area; and

(b) such that each such block has a side in common with at least one other block specified in the application.

(4) The minimum number of blocks in respect of which the renewal of an exploration licence may be granted under the provisions of this section shall be nine except where the number of blocks available in accordance with the calculation made under the provisions of subsection (1) is less than nine, in which case the renewal of the expiring exploration licence may be applied for and granted over such number of blocks as are available in accordance with such calculation or such greater number of blocks, but not exceeding nine as the Minister considers appropriate in the circumstances.

Discovery of petroleum

21. Where petroleum is discovered within any area the subject of an exploration licence, the holder shall-

(a) forthwith notify the Director of such discovery;

(b) within a period of three days after the date of such discovery, furnish the Director with full particulars in writing of such discovery;

(c) within such time as may be reasonably required for that purpose, do all such things as may be required to be done to determine the chemical composition and physical properties of that petroleum and to conduct such formation and other tests as are in keeping with good oil field practice; and

(d) within such time as the Director may by notice in writing require, furnish the Director with particulars in writing of any one or more of the following:-

(i) the chemical composition and physical properties of that petroleum;

(ii) the nature of the subsoil in which the petroleum occurs; and

(iii) any other matter relating to the discovery as may be specified by the Director in such notice.

(Amended by Act 12 of 1979, s. 3.)

Nomination of block for purpose of declaring location

22.-(1) Subject to compliance with all of the requirements of section **21**, the holder of an exploration licence may nominate a block within the area other than the subject of his exploration licence as a discovery block for the purpose of section **23**.

(2) If the holder of an exploration licence fails within a period of three months, or such extended time as may be allowed by the Director, from the date of notification to the Director of the discovery of petroleum under the provisions of section **21**, to nominate a block as a

discovery block under the provisions of subsection (1) the Director may by notice in writing require such holder to nominate a block and if such holder fails within a period of three months from the date of service on him of such notice or within such further period as the Director may allow, to make such nomination the Director may nominate any block within the licensed area as being the discovery block.

(3) A block may not be nominated as a discovery block under the provisions of this section if it is, or is included in an existing declared location, or if it is such that if it were so nominated and the declaration under the provisions of section 23 were made, the block within which the discovery of petroleum was in fact made would not form part of the location so declared.

(4) A block may not, without the consent of the Director, be nominated by the holder of an exploration licence under the provisions of this section if such block immediately adjoins another block which has already been nominated as a discovery block and that other discovery block is a block-

- (a) in respect of which such exploration licence is in force;
- (b) that is included in an existing declared location; and
- (c) that was specified as a discovery block for the purpose of the declaration of that location.

Declaration of location

23. When a block has been nominated by the holder of an exploration licence as a discovery block under the provisions of section 22, the Minister shall by notice in the Gazette declare-

- (a) that block; and
- (b) such of the blocks within the same licensed area that immediately adjoin that block and are not included in an existing declared location,

to be a location for the purposes of this Act:

Provided that the Minister may if-

- (i) so required by the holder of the exploration licence; and if
- (ii) he is satisfied that there is sufficient justification for his doing so,

by notice in the Gazette, revoke such declaration.

Immediately adjoining block

24. For the purposes of sections 22, 23 and 25, a block shall be deemed to immediately adjoin another block if the two blocks have a side in common or are joined together at one point only.

PART III-PRODUCTION LICENCES

Application for production licence

25.-(1) The holder of an exploration licence which is in force in respect of any block or blocks constituting a location may at any time within the application period, apply to the Minister for the grant of a production licence under the provisions of this Act over such number of immediately adjoining blocks as are specified in subsections (2) and (3).

(2) The number of blocks over which the holder of an exploration licence shall be primarily entitled to the grant of a production licence shall be-

- (a) where seven or more blocks constitute the location concerned-four of those blocks;
- (b) where six or five blocks constitute the location concerned-three of those blocks;
- (c) where four or three blocks constitute the location concerned-two of those blocks;
- (d) where two blocks constitute the location concerned-those two blocks; and
- (e) where one block constitutes the location-that block.

(3) Notwithstanding the provisions of subsection (2), the holder of an exploration licence in respect of any block or blocks constituting a location may apply to the Minister for the grant of a production licence in respect of any number of immediately adjoining blocks constituting the location whether such number is greater or less than his primary entitlement as set out in subsection (2), and may from time to time within the application period apply to the Minister for the variation of such licence to include in the licensed area any other immediately adjoining block or blocks included in the location.

(4) The application period in respect of an application under the provisions of this section shall be-

- (a) the period of two years after the date of declaration of the location under the provisions of section **23**; or
- (b) such other period, being not less than two years nor more than five years after the date of declaration of the location as the Minister, on application in writing by the holder of the exploration licence being served on him within such period of two years, may allow.

(5) Every application for the grant, or variation, of a production licence shall be lodged with the Director and shall-

- (a) be in writing in the prescribed form and addressed to the Minister;
- (b) be accompanied by the prescribed fees;
- (c) be accompanied by the particulars of the proposals of the applicant for work and expenditure in respect of each block specified in the application; and
- (d) may set out such other matters that the applicant wishes to be considered by the Minister.

(6) The Minister may, at any time, by notice in writing require the applicant to furnish within the time specified in such notice, such further information in writing in connection with such application as in the opinion of the Minister is required.

Grant of production licence

26.-(1) Where an application has been made for a production licence under the provisions of section 25 and the applicant has-

- (a) furnished all information required by the Minister under the provisions of subsection (6) of that section; and
- (b) complied with the conditions of the exploration licence in force in respect of the blocks the subject of his application for a production licence,

the Minister shall grant to the applicant a production licence in respect of the blocks specified in the application.

(2) A production licence may be granted subject to such conditions not inconsistent with the provisions of this Act as the Minister sees fit and specifies in such licence.

Rights conferred by production licence

27. Subject to the provisions of this Act, the holder of a production licence shall have the exclusive right -

- (a) to carry on operations for the recovery of petroleum in the licensed area;
- (b) to explore for petroleum in the licensed area; and
- (c) to carry on such other operations and execute such works in the licensed area as are necessary for those purposes.

Term of licence

28. Unless previously cancelled or surrendered under the provisions of this Act, a production licence shall remain in force-

- (a) in the case of a licence granted otherwise than by way of renewal of a licence- for a period of twenty-one years, commencing on the day on which the licence has effect;
- (b) in the case in the case of a licence granted by way of the first renewal of a licence- for a period of twenty-one years commencing on the day after the day on which the previous production licence ceases to have effect; and
- (c) in the case of a licence granted by way of renewal, other than a first renewal of a licence- for such period, not exceeding twenty-one years as the Minister may determine and specifies in the licence, commencing on the day after the day on which the last previous production licence in respect of the blocks specified in the licence so granted ceases to have effect.

Application for renewal of production licence

29.-(1) The holder of a production licence may from time to time, upon payment of the prescribed fees, apply to the Minister in the prescribed form for the renewal of the licence in respect of such blocks the subject of the licence as are specified in the application.

(2) An application for the renewal of a production licence shall be lodged with the Director not less than six months before the expiration of such licence:

Provided that the Minister may for reasons that he considers sufficient authorise the Director to receive an application for the renewal of such a licence less than six months before, but not in any case after, the expiration of the licence.

Grant or refusal of renewal of production licence

30.-(1) Where the holder of a production licence who has complied with the conditions of the licence applies under the provisions of section **29** for the renewal of the licence, the Minister-

- (a) shall, if the application is in respect of the first renewal of such licence; or
- (b) may, if the application is in respect of a renewal, other than the first renewal, of the licence,

grant him the renewal of the licence.

(2) Where the holder of a production licence who has not complied with the conditions of the licence applies under the provisions of section **29** for the renewal of the licence the Minister, if he is satisfied that special circumstances exist that justify the renewal of the licence, may grant the renewal of the licence or if he is not so satisfied may refuse to grant the renewal of the licence:

Provided that the Minister shall not if the application is in respect of the first renewal of the licence, refuse to grant the renewal of the licence unless-

- (a) he has by notice in writing served on the holder of the licence given not less than one month's notice of his intention to refuse to grant the renewal of the licence;
- (b) he has sent a copy of such notice to such other persons, if any, as he sees fit;
- (c) he has in such notice-
 - (i) given particulars of his reason for the intention;
 - (ii) specified a date on or before which the holder of the licence or any person upon whom a copy of the notice is served may submit written representations on any matter that he wishes the Minister to consider;
- (d) he has taken into account any representations submitted to him before the date so specified.

Partial cancellation of exploration licence on grant of production licence

31.-(1) Upon the grant of a production licence under the provisions of section **26**, the

exploration licence then in force in respect of all blocks that become the subject of such production licence shall be deemed to have been cancelled in respect of such blocks.

(2) In the event of the holder of the exploration licence not making application to the Minister within the application period referred to in subsection (4) of section 25 for the grant of a production licence in respect of any of the blocks constituting the location the exploration licence may be cancelled by the minister at the expiration of the said application period in respect of all or any of the blocks which are included in the location concerned but are not the subject of such a production licence.

(3) The Minister may, at any time after the cancellation of any exploration licence in respect of any block under the provisions of subsection (2) call for applications for, and may in his discretion grant, an exploration licence or a production licence to any person in respect of such block as he sees fit and subject to such conditions as to royalty rates or otherwise as he sees fit:

Provided that-

(a) such conditions are no more favourable to the holder of the licence so granted than as are otherwise required under the provisions of this Act; and

(b) except as modified by any such conditions the provisions of his Act shall be applicable to any exploration licence or production licence granted under the provisions of this subsection.

Works to be carried out

32.-(1) The holder of a production licence shall subject to any exemption granted by the Minister under the provisions of subsection (4) be required to carry out such works as may be approved by the Minister in relation to exploration for, or operations for the recovery of, petroleum in the licensed area.

(2) The value of the works required to be carried out under the provisions of subsection (1) shall be not less than-

(a) during the first year of the term of the licence, an amount calculated by multiplying the sum of \$175,000 by the number of blocks in respect of which the licence is in force;

(b) during each subsequent year of the term of the licence-

(i) if no petroleum has been recovered from the licensed area during the last preceding year of the term of the licence, an amount calculated in accordance with paragraph (a); and

(ii) if petroleum has been recovered from the licensed area during the last preceding year of the term of the licence, if the amount calculated in accordance with paragraph (a) exceeds the value of that petroleum, the amount of such excess.

(3) If during any year of the term of his licence the holder of a production licence fails to comply with the requirements of subsection (1), the Minister may recover from such holder, by action in a court of competent jurisdiction an amount equal to the value of the works that such holder was required to carry out during that year of the term of the licence after deduction therefrom of the value of all works in fact carried out by such holder in the licensed area during that year.

(4) The Minister may, if he is satisfied that special circumstances exist that justify his doing so and subject to such conditions as he thinks fit, exempt the holder of a production licence from compliance with the requirements of subsection (1).

(5) For the purposes of this section the value of any petroleum shall be the well-head value of that petroleum.

Directions as to recovery of petroleum

33.-(1) Where petroleum is not being recovered from an area the subject of a production licence and the Minister is satisfied that there is recoverable petroleum in that area he may, by notice in writing, served on the holder of such licence, direct such holder to take all such steps as are necessary and practicable for the recovery of petroleum in the licensed area.

(2) Where petroleum is being recovered in any area the subject of a production licence and the Minister is satisfied that the rate of recovery of such petroleum is either insufficient or excessive, he may, by notice in writing served on the holder of such licence, direct such holder to take all such steps as are necessary and practicable to increase or reduce the rate at which such petroleum is being recovered to such rate as the Minister specifies in such notice.

(3) If the Minister is not satisfied with any steps taken or being taken by the holder of a production licence to whom a direction has been given under the provisions of either of subsections (1) or (2), he may by notice in writing served on such holder give such directions as the Minister considers necessary for or in relation to the recovery of petroleum in the licensed area or the increase or reduction in the rate of such recovery.

Unit development

34.-(1) If at any time during the term of a production licence the area the subject of such licence includes any part of a petroleum pool any other part of which petroleum pool is included within any other area the subject of another production licence, the holder of such licence-

(a) may subject to the approval of the Minister enter into an agreement in writing for or in relation to the co-ordination of the operations for the recovery of petroleum from that petroleum pool; and

(b) shall, if so directed by the Minister by notice in writing, within such period as may be specified by the Minister in such notice, enter into such an agreement.

(2) At any time after the expiration of the period specified in any notice given under the provisions of paragraph (b) of subsection (1), the Minister may by notice in writing served on the holder of any such production licence give to such holder such directions as the Minister thinks necessary for the purpose of securing the more effective recovery of petroleum from that petroleum pool.

Licence holder to be consulted

35. The Minister shall not give a direction under the provisions of either of sections **33** or **34** unless he has given to the licensee or licensees concerned a reasonable opportunity to make representations to him concerning the proposed direction.

PART IV-PIPELINE LICENCES

Minister may authorise entry onto lands for purpose of survey

36.-(1) The Minister may, on application being made to him in writing in that behalf by any person who satisfies the Minister of his intention to apply for a pipeline licence, grant a permit authorising such person either specifically or generally to enter from time to time, with such assistants, equipment and materials as he thinks fit, upon any land within the area specified in such permit for the purpose of making surveys and preliminary investigations in respect of the construction of the pipeline to which the licence for which he proposes to apply will relate.

(2) Any person granted a permit under the provisions of subsection (1) may do all things that he considers necessary for the purpose of the survey and investigation, including the drilling or digging of holes and the affixing and setting up of such pegs, marks or poles as may be required for that purpose.

(3) Before entry on any land is made under the provisions of this section the permit holder shall first give notice in writing to the owner or occupier of his intention to enter thereon and if so required by such owner or occupier shall produce the permit under which he claims authority to enter on the land:

Provided that he shall not enter on any unalienated native land unless she shall have sent copies of such notice to the Native Land Trust Board and to the Commissioner for the Division in which such land is situated and has complied with all reasonable directions given by such Commissioner for the maintenance of amicable relations with the owners of the land.

Application for a pipeline licence

37.-(1) The holder of a production licence, or any other person who has entered, or proposes to enter, into an agreement with any such holder conveyance of petroleum by means of a pipeline from any area the subject of a production licence, may at any time while that production licence is in force apply to the Minister for the grant of a pipeline licence under the provisions of this Act.

(2) An application for a pipeline licence shall be lodged with the Director and shall-

- (a) in writing in the prescribed form addressed to the Minister;
- (b) be accompanied by the prescribed fee;
- (c) be accompanied by particulars of-
 - (i) the proposed design and construction of the pipeline;
 - (ii) the proposed size and capacity of the pipeline;

- (iii) the proposals of the applicant for work and expenditure in respect of the construction of the pipeline;
- (iv) the technical qualification of the applicant and office employees;
- (v) the technical advice available to the applicant;
- (vi) the financial resources available to the applicant;
- (vii) all agreements 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;
- (viii) all agreements entered into, or proposed to be entered into, by the applicant under the provisions of section 45 or 46 with the owners or occupiers of any onshore lands over which any of the pipeline is to be constructed;
- (d) accompanied by a plan drawn to an approved scale-
 - (i) showing the route proposed to be followed by the pipeline;
 - (ii) showing the situation of all pumping stations, tank stations valve stations, terminal facilities and other permanent appurtenances of a substantial nature intended to be use in connection with the operation of the pipeline;
 - (iii) specifying particulars of all onshore lands over which any part of the pipeline is to be constructed;
- (e) be accompanied by copies of all notes served in accordance with the provisions of subsection (4); and
- (f) may set out any other matters that the applicant wishes to be considered by the Minister.

(3) The Minister may at any time by notice in writing served on the applicant, require him to furnish to the Minister, within the time specified in the notice, such further information relating to the application as may be required by the Minister.

(4) Before lodging his application for a pipeline licence, the applicant shall serve notice in writing on each owner and each occupier, if any, of any land over which any part of the pipeline is to be constructed, of his intention to make such application.

(5) If the Minister is of the opinion that, for any reason, the route proposed to be followed by a pipeline is inappropriate, he may by notice in writing served on the applicant require the applicant-

- (a) to amend the plan lodged under the provisions of paragraph (d) of subsection (2) to follow such other route as the Minister considers reasonable and convenient for all persons who may be affected by the construction of the pipeline;
- (b) to serve notices in writing of such amendments on the owners and occupiers of lands proposed to be affected by such amendments and to deliver copies of all such notices to the Director, within such time as may be specified by the Minister.

Grant or refusal of pipeline licence

38.-(1) Where an application has been made for a pipeline licence under the provisions of section 37 and-

- (a) the Minister is satisfied that the applicant has made adequate provision or gives security to the satisfaction of the Minister for the payment of all damages and compensation payable under the provisions of Part V; and

(b) a period of thirty days has elapsed since the date on which the last of the notices required to be served under the provisions of subsections (4) and (5) of section 37 have been served,

the Minister, after taking into consideration any representations made to him with respect to the application and in particular the matters referred to in subsection (2),

(i) shall, if the application is in respect of the construction of a pipeline for the conveyance of petroleum recovered in a licensed area in respect of which the applicant is the holder of a production licence and the applicant has complied with the conditions to which such production licence is subject; or

(ii) may, if the application is made by any other person,

grant to the applicant a pipeline licence for the conveyance of petroleum over such route and subject to such conditions as may be specified by the Minister in such licence.

(2) In considering an application for a pipeline licence the Minister shall have regard to-

(a) the public interest;

(b) the financial and technical ability of the applicant, to construct, and maintain the pipeline;

(c) whether the construction of the pipeline would be likely to contravene the provisions of any town planning scheme under the Town Planning Act; and

(Cap. 139.)

(d) whether the construction and operation of the pipeline along the proposed route would be unsuitable by reason of the pipeline likely to interfere unnecessarily with any improvements, improved land, flora, fauna or scenic attractions or for any other reason that the Minister considers sufficient.

(3) The Minister shall not refuse to grant a pipeline licence unless he has-

(a) by notice in writing served on the applicant, given not less than one month's notice of his intention to refuse to grant such licence;

(b) served a copy of such notice on such other person, if any, as he considers would be adversely affected by such refusal;

(c) in such notice-

(i) given particulars of the reasons for such intention; and

(ii) specified a date, being not less than one month after the date of service of such notice, on or before which the applicant or any other person upon whom a copy of the notice is served may submit written representations on any matters that he wishes the Minister to consider; and

(d) taken into account all matters so submitted for his consideration.

(4) A pipeline licence may be granted subject to such condition not inconsistent with the provisions of this Act as the Minister sees fit and specifies in such licence.

(5) The conditions referred to in subsection (4) may include a condition that the licence holder

shall complete the construction of the pipeline within such period as may be specified in the licence.

Rights conferred by a pipeline licence

39. Subject to the provisions of this Act and in accordance with the terms and conditions to which such licence is subject the holder of a pipeline licence shall have the right-

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

Term of pipeline licence

40.-(1) Unless previously cancelled or surrendered under the provision this Act, a pipeline licence shall remain in force-

- (a) for a period of twenty-one years; or
- (b) where the Minister is of the opinion that, having regard to the dates of expiration of the production licences in force in respect of the licensed areas from which petroleum is, or is to be, conveyed by means of the pipeline, a shorter period is appropriate, for such period being less than twenty-one years as the Minister determines and specifies in the pipeline licence.

(2) The period for which a pipeline licence remains in force, commences-

- (a) in the case of a licence granted otherwise than by way of renewal of a licence-on the day on which the licence has effect; and
- (b) in the case of a licence granted by way of renewal-on the day after the day on which the last previous licence in respect of the said pipeline ceases to have effect.

Application for renewal of pipeline licence

41.-(1) The holder of a pipeline licence may from time to time, upon payment of the prescribed fee, apply to the Minister in the prescribed form for the renewal of the licence.

(2) An application for the renewal of a pipeline licence shall be lodged with the Director not less than six months before the expiration of such licence:

Provided that the Minister may for reasons that he considers sufficient authorise the Director

to receive an application for the renewal of such a licence less than six months before, but not in any case after, the expiration of the licence.

Grant or refusal of renewal of pipeline licence

42. Where the holder of a pipeline licence applies under the provisions of section **41** for the renewal of such licence, the Minister-

- (a) shall, if the holder of such licence has complied with the terms and conditions of his licence, grant him the renewal of such licence; or
- (b) may, if the holder of such licence has not so complied and the Minister is satisfied that special circumstances exist that justify the renewal of the licence, grant him the renewal of the licence; or

if the Minister is not so satisfied, refuse to grant the renewal of the licence:

Provided that the Minister shall not refuse to grant the renewal of a pipeline licence unless he has first complied with the provisions of sub-section (3) of section **38**.

Variation of pipeline licence

43.- (1) The holder of a pipeline licence may at any time on payment of the prescribed fee, apply to the Minister in the prescribed form for a variation of the licence.

(2) An application for the variation of a pipeline licence shall be lodged with the Director and-

- (a) shall be accompanied by particulars of the proposed variation;
- (b) shall specify the reasons for the proposed variation;
- (c) shall, if the proposed variation is in respect of the route followed by the pipeline, be accompanied by a plan drawn to an approved scale-
 - (i) showing all variations proposed to be made to the route followed by the pipeline; and
 - (ii) specifying particulars of all lands proposed to be effected by such variation;
- (d) shall, if the proposed variation is in respect of the route followed by the pipeline, be accompanied by particulars of all agreements entered into or proposed to be entered into by the applicant under the provisions of section **45** or **46** with the owners or occupiers of any onshore lands proposed to be affected by such variation;
- (e) shall be accompanied by copies of all notices served in accordance with the provisions of subsection (4);
- (f) may set out any other matters that the applicant wishes to be considered by the Minister.

(3) The Minister may at any time by notice in writing served on the applicant, require him to furnish to the Minister, within the time specified in the notice such further information relating to the application as may be required by the Minister.

(4) Before lodging his application for variation of a pipeline licence the holder of such licence shall, if the proposed variation relates to the route followed by the pipeline, serve notice in

writing on each owner and each occupier, if any, of any land proposed to be affected by such variation.

(5) If the Minister is of the opinion that for any reason the route proposed to be followed by a pipeline as the result of any proposed variation in a pipeline licence is inappropriate, he may by notice served on the applicant require the applicant-

(a) to amend the plan lodged under the provisions of paragraph (c) of subsection (2) to follow such other route as may be reasonable and convenient for all persons who may be affected by the variation in the route followed by the pipeline;

(b) to serve notice in writing of such amendments on the owners and occupiers of all lands proposed to be affected by such amendments; and

(c) to deliver copies of all such notices to the Director within such time as may be specified by the Minister.

(6) After considering any representations made to him in relation to an application for the variation of a pipeline licence and in particular to the matters referred in subsection (7), the Minister may, at any time after a period of thirty days has elapsed since the date on which the last of the notices required to be served under the provisions of subsection (4) or (5) have been served-

(a) vary the pipeline licence to such extent as he considers necessary; or

(b) refuse to vary the licence.

(7) If the Minister is of the opinion that it is necessary in the public interest he may by notice served on the holder of a pipeline licence direct such holder to make such changes in the design, construction, route or position of any pipeline or of any pumping station, tank station or valve station to which that licence relates and as are specified in such notice.

(8) Where the Minister gives any direction under the provisions of subsection (7) and the person to whom the direction was given has complied with the direction he may bring an action in the Supreme Court against the Crown and the Supreme Court shall hear the action and shall determine whether it is just that the whole or any portion of the reasonable cost incurred by such holder in complying with the direction ought to be paid by the Crown and if the Supreme Court determines that such a payment ought to be made it shall determine the amount of the payment and give judgment accordingly.

Direction as to the conveyance of petroleum in a pipeline

44.-(1) If -

(a) any person, by notice in writing served on the holder of a pipeline licence, requests such holder to enter into an agreement for the conveyance of petroleum through any pipeline constructed under the authority of that licence; and

(b) that person and the holder of that licence do not, within a period of three months after the date of service of such notice, enter into such an agreement,

that person may apply to the Minister in the prescribed form for a direction under the provisions of this section.

(2) Any application under the provisions of this section shall be lodged with the Director and shall-

- (a) be in writing in the prescribed form addressed to the Minister;
- (b) be accompanied by the prescribed fee; and
- (c) set out the matters that the applicant wishes the Minister to consider in relation to the application.

(3) Upon receipt of an application under the provisions of subsection (2), the Director shall-

- (a) serve notice of the application on the holder of the pipeline licence and on such other persons, if any, as the Minister may direct; and
- (b) specify in such notice a date on or before which the licence holder or any other person on whom the notice is served may submit to him in writing any matter that he wishes the Minister to consider in connection with the application.

(4) After considering any matter submitted to him under the provisions of subsection (3) and such other matters as he considers relevant, the Minister, by notice in writing served on the applicant, the licence holder and any other person lawfully entitled to use that pipeline-

- (a) may give such direction as he considers appropriate for or in relation to the use of the pipeline by the applicant, the licence holder and any other such person; or
- (b) may refuse the application.

(5) Without limiting the generality of the provisions of subsection (4), a direction given under the provisions of paragraph (a) thereof may include directions as to the amounts to be paid to the licence holder by the applicant and by any other person lawfully entitled to use the pipeline but any such direction shall be subject to the right of the licence holder to convey his own petroleum through the pipeline in priority to any other petroleum to be so conveyed.

PART V-DAMAGE AND COMPENSATION

Compensation payable for damage to land

45.-(1) It shall be an implied condition of every licence or permit granted by the Minister under the provisions of this Act that the holder thereof shall pay compensation to the person entitled thereto for all damage done to the surface of any onshore land and to any improvements thereon by any operation conducted on such land by the holder of such licence or permit under the authority of any of the provisions of this Act:

Provided that in determining the amount of any such compensation no allowance shall be made for any petroleum or other minerals known or supposed to be on or under any land.

(2) The amount of compensation payable under the provisions of this section shall be as mutually agreed between the holder of the licence or permit and the person entitled to such compensation.

(3) Compensation payable under the provisions of this section for damage done shall be payable at the time when such damage occurs.

(4) When land is restored in accordance with the provisions of this Act, no compensation shall be payable in respect of any damage to the surface of the land so restored.

(5) When surface rent is payable pursuant to the provisions of section 46 in respect of any land the subject of a licence, no compensation shall be payable under the provisions of this section for any damage done to any improvements effected to such land after the date on which surface rent began to be payable.

(6) Any person who has received compensation under the provisions of this section for damage done to any improvements on any land the subject of a licence or permit shall not be entitled to claim any further compensation in respect of the same damage but shall be entitled from time to time to receive such further compensation as the Director may determine for any further damage done to any improvements on such land by the operations of the holder of such licence or permit.

Surface rent payable for disturbance of surface rights

46.-(1) It shall be an implied condition of every licence granted under the provisions of this Act that the holder thereof shall pay surface rent to the person entitled for the surface rights of any onshore land the subject of such licence as compensation for any disturbance of any such rights by any operation on such land by the holder of such licence under the authority of any of the provisions of this Act:

Provided that in respect of a production licence, surface rent shall be payable only in respect of that portion of the surface of such land which the holder of such licence is actually using and occupying.

(2) The amount of surface rent payable shall be mutually agreed in writing between the holder of the licence and the person entitled to the surface rights of the land the subject of such licence and every such agreement or a certified copy thereof shall be deposited in the office of the Director on payment of the prescribed fee.

(3) Surface rent shall be paid to the person entitled therefor half-yearly in advance in each January and July and evidence of such payment shall be presented to the Director within fourteen days of such payment:

Provided that before commencing operations on any land the subject of his licence the holder of every licence in respect of which surface rent is payable shall pay surface rent on a *pro rata* basis up to the end of the next ensuing half year.

PART VI-REGISTRATION OF INSTRUMENTS

Register of Exploration Licences

47.-(1) Every exploration licence shall be recorded in a register to be kept by the Director called the "Register of Exploration Licences".

(2) The full particulars of every exploration licence shall be entered in the Register of Exploration Licences, which particulars shall include-

- (a) the number of the exploration licence;
- (b) the name (if any) of the licensed area;
- (c) a full description of the licensed area as set out in the licence;
- (d) the date on which it was issued and the date of its expiry;
- (e) the name of every holder;
- (f) the shares held by each holder;
- (g) all transfers, assignments, agreements and other dealings approved by the Minister in connection with such licence.

Registers of Production Licences and Pipeline Licences

48.-(1) Every production licence and pipeline licence shall be recorded in registers to be kept by the Registrar of Titles called the "Register of Production Licences" and the "Register of Pipeline Licences".

(2) On registration, every production licence and pipeline licence shall be subject to the provisions of any Act for the time being in force relating to the registration of title to land in so far as such provisions are not inconsistent with the provisions of this Act, in the same manner as if such licence was a mining lease granted under the provisions of the Mining Act and the provisions of subsections (2), (3) and (4) of section 45 of the Mining Act shall *mutatis mutandis* apply to every such licence.

(Cap. 146.)

Records of Production Licences and Pipeline Licences

49. The full particulars of every production licence and every pipeline licence shall be recorded in books to be kept by the Director and called the "Record of Production Licences" and the "Record of Pipeline Licences" respectively which particulars shall include-

- (a) the number of the licence;
- (b) the name (if any) of the licensed area;
- (c) a full description of the licensed area as set out in the licence;
- (d) the date on which the licence was issued and the date of its expiry;
- (e) the name of every holder;
- (f) the shares held by each holder;

(g) all transfers, assignments, agreements and other dealings approved by the Minister in relation to the licence.

Minister's consent required to deal in licence

50.-(1) The holder of any licence or of any interest therein shall not transfer or otherwise deal in his right or interest therein, or any part or share thereof, in any manner whatsoever without first obtaining the approval in writing of the Minister and no evidence of any such dealing shall be admissible in any court unless such prior approval has been obtained.

(1A) An application for approval under subsection (1) shall be accompanied by the prescribed fee.

(Inserted by Act 17 of 1985.)

(2) Every dealing in a licence or any interest thereon shall be in writing and shall state the full and true consideration passing between the parties thereto, otherwise the dealing shall be null and void.

(3) (a) Every dealing in a licence shall be presented to the Director for the endorsement of the approval of the Minister, together with a duplicate or certified copy thereof which shall be retained by the Director, and until so endorsed each such dealing shall be null and void, and no dealing shall be so endorsed unless it is stamped to the satisfaction of the Commissioner of Stamp Duties under the provisions of the Stamp Duties Act.
(Cap. 205.)

(b) Every such dealing shall be presented for endorsement within twenty-one days from the date thereof and if such dealing is registrable shall be presented for registration within twenty-one days from the date of endorsement by the Minister:

Provided that the Minister may in his discretion, on reasonable cause being shown, extend the time for endorsement or registration.

(Amended by Act 12 of 1979, s. 4.)

Minister may require information as to proposed dealings

51. The Minister may require any person presenting a dealing for approval under the provisions of section 50 to furnish him in writing with such information concerning the transaction as the Minister considers necessary or advisable.

Entries in register on devolution of title

52. A person upon whom the rights of any holder of a licence have devolved by operation of law may apply in writing to the Director or the Registrar of Titles, as may be appropriate, to

be registered as the holder of such licence and the Director or Registrar of Titles, as the case may be, shall if he is satisfied that the rights of the holder of such licence have so devolved shall register the applicant as the holder of such licence.

Production and inspection of documents

53. The Minister or the Director may require any person to produce to him or to make available for inspection by him any documents in the possession or control of that person and relating to any dealing presented to the Director for endorsement under the provisions of section **50**.

(Amended by Act 12 of 1979, s. 5.)

Inspection of Registers and Records

54. The Registers of Exploration Licences, Production Licences and Pipeline Licences and the Records of Production Licences and Pipeline Licences and all dealings recorded therein shall upon payment of the prescribed fee be open to inspection by any person during such hours and on such days as the office of the Director is open for public business.

Proof of documents

55. Subject to the provisions of the Stamp Duties Act, in all proceedings in any court the production of any document purporting to be issued by the (Minister, the Director or any inspector under the provisions of this Act shall, until the contrary is proved, be sufficient evidence that the document is what it purports to be and that it was lawfully issued.

(Cap. 205.)

Issue of certified and duplicate copies of documents

56.-(1) The Director may subject to payment of the prescribed fee issue a certified copy of any exploration licence or other document filed with him and such certified copy shall be received in evidence in any court.

(2) Upon the application of the holder thereof the Minister may, subject to payment of the prescribed fee and to such conditions as to proof of loss or destruction as he thinks fit issue a duplicate of any exploration licence which he is satisfied has been lost or destroyed, and such duplicate shall be available for all purposes and uses and have the same force and effect as the lost or destroyed licence:

Provided that the Minister shall not issue such duplicate unless the applicant therefor has given not less than fourteen days' notice in the Gazette and in any newspaper published and circulating in Fiji of his intention to make such application.

PART VII-GENERAL

Forms of licences

57. Licences granted under the provisions of this Act shall be in accordance) with such forms as may be approved by the Minister.

Notice of grants of licences to be published

58. The Minister shall cause such particulars as he thinks fit of-

- (a) an application for a licence;
- (b) the grant or renewal of a licence;
- (c) the variation of a licence;
- (d) the surrender or cancellation of a licence as to all or any part of the licensed area;
- (e) the expiry of a licence,

to be published in the Gazette and in a newspaper published and circulating in Fiji.

Date of effect of licence, etc.

59.-(1) A licence shall have effect from and including the date specified for that purpose on the licence or if no date is so specified from the date of issue of the licence.

(2) The surrender or cancellation of a licence as to the whole or any part of the licensed area shall have effect from and including the date specified for that purpose in the notice of surrender or cancellation or if no date is so specified on the day on which the notice is published in the Gazette.

(3) A variation of a licence shall have effect from and including the date specified for that purpose in the notice of variation or if no date is so specified from the day on which such notice is published in the Gazette.

Commencement of works

60. Where a licence is granted subject to any condition that any works or operations specified in the licence are to be carried out, the holder of the licence shall commence to carry out those works or operations within such time period as may be specified in the licence or, if no period is so specified, within a period of six months after the day on which the licence has effect:

Provided that the Minister may, if he thinks fit, by notice in writing served on the licence holder extend the period within which any such works or operations are to be commenced or completed for such period as he thinks fit and specifies in such notice.

Exploration licence deemed to continue in force until renewal granted or refused

61. Where an application is made for the renewal of any licence in accordance with any of the provisions of this Act and the licence expires before the Minister grants or refuses to grant the renewal of such licence, the licence shall be deemed to continue in force in all respects until such time as the Minister grants or refuses to grant the renewal of the licence.

Work practices

62.-(1) Every holder of an exploration licence or production licence shall carry out all petroleum exploration operations and operations for the recovery of petroleum in the licensed area in a proper and workmanlike manner and in accordance with good oil-field practice and shall secure the safety, health and welfare of persons engaged in those operations in or about the licensed area, and in particular, without limiting the generality of the foregoing, shall-

(a) take all steps practicable to-

(i) control the flow, and prevent the waste or escape in the licensed area, of petroleum or water;

(ii) prevent the escape in the licensed area of any mixture of water or drilling fluid with petroleum or any other matter;

(iii) prevent damage to any petroleum bearing strata in any area outside the licensed area;

(iv) keep separate each petroleum pool discovered in the licensed area;

(v) keep separate such of the sources of water, if any, discovered in the licensed area as the Minister, by notice in writing served on such holder, directs;

(vi) prevent the entrance of water or any other matter through wells to petroleum bearing strata or petroleum pools except when required by, and in accordance with, good oil-field practice;

(vii) prevent the pollution of any water-well, spring, stream, river, lake, estuary, harbour, the high or territorial seas and shoreline by oil or any drilling fluid or substance which might contaminate the water or shore line or which might cause harm or destruction to marine life;

(viii) confine all petroleum obtained from the licensed area in tanks, gas holders, pipes, pipelines or other receptacles constructed for that purpose;

(b) drain all waste oil, salt water and refuse from tanks, gas holders and wells into proper receptacles constructed and maintained for that purpose at a safe distance from all such tanks, gas holders and wells and from all other structures whether situated in the licensed area or not and dispose of such waste oil, salt water and refuse in such manner as the Minister may from time to time direct.

(2) Every holder of a pipeline licence shall operate the pipeline in all proper and workmanlike manner and shall secure the safety, health and welfare of persons employed in or about the licensed area and in particular without limiting the generality of the foregoing shall take all steps practicable to prevent the waste or escape of petroleum or water from any pipeline or from any secondary line, pumping station, tank station, valve station or water line.

Maintenance, etc., of property

63. Every holder of an exploration licence, production licence or pipeline licence shall maintain in good condition and repair all structures, equipment and other property brought into the licensed area by him or with his authority and shall further remove from the licensed area all such structures, equipment and other property, that are not either being used or to be used in connection with the operations in which he is engaged under the authority of such licence.

Sections 62 and 63 to have effect subject to other provisions of this Act

64. The provisions of sections 62 and 63 shall have effect subject to-

- (a) any other provisions of this Act;
- (b) any regulations made under the provisions of this Act;
- (c) any directions given under the authority of this Act.

Drilling near boundaries

65.-(1) No well may be drilled under the authority of any licence-

- (a) so as to deviate at any point outside such licensed area; or
- (b) except with the consent in writing of the Minister and subject to such conditions as may be specified by him in such consent, so that any part of such well is less than 300 metres from the boundary of the licensed area in which it is drilled.

(2) If any licence holder fails to comply with any of the provisions of subsection (1) or with any conditions imposed thereunder the Director may by notice in writing served on the licence holder direct him to do one or more of the following within such period as may be specified in such notice-

- (a) to plug the well;
- (b) to close off the well; and
- (c) to comply with such directions relating to the drilling or maintenance of the well as may be specified in such notice.

Minister may give directions

66.-(1) The Minister may, by notice in writing served on the holder of any licence, give to such holder directions as to any matter with respect to which regulations may be made under the provisions of this Act.

(2) Any directions given under the provisions of subsection (1) shall have effect and shall be complied with notwithstanding anything contained in any regulations made under the provisions of this Act and to the extent that any such regulations are inconsistent with such directions, the person to whom the directions are given shall be exempt from compliance with such regulations.

(3) If any person to whom a direction is given under the provisions of this Act fails to comply with such direction, the Minister may, notwithstanding that such person has been convicted of any offence under the provisions of this Act in respect of such failure, do or cause to be done all or any of the things required by the direction to be done and all costs and expense incurred by the Minister in relation thereto shall be a debt due by the person to whom the direction was given to the Crown and recoverable in a court of competent jurisdiction.

Surrender of licence

67.-(1) The holder of any licence may, at any time, on payment of the prescribed fee, surrender-

(a) in the case of an exploration licence or production licence, all or any of the blocks included within the licensed area; or

(b) in the case of a pipeline licence, the whole or any part of the area the subject of such licence:

Provided that-

(i) he has given not less than three months' notice in writing to the Minister of such surrender;

(ii) he has carried out up to the surrender date, *pro rata* if appropriate, all work and expenditure conditions imposed upon him by or under the provisions of this Act;

(iii) he has paid all fees and other amounts payable by him in respect of such licence under the provisions of this Act or has made arrangements to the satisfaction of the Minister for the payment of all such fees and amounts;

(iv) he has complied with all other conditions to which the licence is subject and with the provisions of this Act and all regulations and directions made or given thereunder;

(v) he has to the satisfaction of the Minister removed or caused to be removed from the area to which the surrender relates all property brought into that area by any person engaged or concerned in the operations authorised by such licence or has made arrangements to the satisfaction of the Minister with respect to all such property;

(vi) he has to the satisfaction of the Minister plugged or closed off all wells drilled in that area by any person engaged or concerned in the operations authorised by such licence;

(vii) he has made provision to the satisfaction of the Minister for the conservation and protection of the natural resources in that area; and

(viii) he has to the satisfaction of the Minister made good all damage to the surface of any land or the seabed or subsoil of the seabed in that area caused by any person engaged or concerned in the operations authorised by such licence.

(2) Notwithstanding the provisions of subsection (1), the Minister may waive compliance with any of the conditions thereby imposed if he is satisfied that special circumstances warrant that justify such waiver.

Cancellation of licence

68.-(1) If the holder of any licence-

- (a) has failed to comply with any of the provisions of this Act or of any regulations or directions made or given thereunder;
- (b) has failed to comply with any condition to which such licence is subject; or
- (c) fails to pay any amount payable by him under the provisions of this Act within a period of three months after the day on which such amount becomes payable, the Minister may on that ground by notice in writing served on such holder-
 - (i) in the case of an exploration licence or production licence, cancel such licence as to all or any of the blocks the subject of such licence; or
 - (ii) in the case of a pipeline licence, cancel such licence as to the whole or any part of the area the subject of such licence.

(2) The Minister shall not, under the provisions of subsection (1), cancel any licence either wholly or in part on any of the grounds specified in that subsection unless he has-

- (a) by notice in writing served on the licence holder, given not less than one month's notice of his intention to cancel such licence;
- (b) served a copy of such notice on such other persons, if any, as he considers will be adversely affected by such cancellation;
- (c) in such notice-
 - (i) given particulars of the grounds for such intention;
 - (ii) specified a date, being not less than one month after the date of service of such notice on the holder of such licence, on or before which such holder or any other person upon whom copy of the notice is served, may submit written representations on any matters that he wishes the Minister to consider; and
- (d) taken into account-
 - (i) all actions by the licence holder to remedy such failure and to prevent any recurrence of it; and
 - (ii) all matters submitted to him for his consideration under the provisions of paragraph (c).

Cancellation not affected by other provisions

69.-(1) A licence may be wholly or partly cancelled on any of the ground specified in paragraph (a) or (b) of subsection (1) of section 68 notwithstanding that any person has been convicted of an offence by reason of any such failure.

(2) A licence may be wholly or partly cancelled on the grounds specified in paragraph (c) of subsection (1) of section 68 notwithstanding that judgment for the amount has been obtained or that the amount or any part of it has been paid or recovered.

Removal of property by licence holder

70.-(1) Upon the expiration, prior surrender or cancellation of any licence as to the whole or any part of the area the subject of such licence the Minister may, by notice in writing served

on the person who is or was the holder of such licence direct such person to do all or any or the following things:-

- (a) to remove or cause to be removed from the area to which such expiration, surrender or cancellation relates all property brought into that area by any person engaged or concerned in the operations authorised by such licence or to make arrangements satisfactory to the Minister with respect to that property;
- (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;
- (c) to make provision to the satisfaction of the Minister for the conservation and protection of the natural resources in that area; and
- (d) to make good to the satisfaction of the Minister any damage to the surface of any land or to the seabed or subsoil in that area caused by any person engaged or concerned in those operations,

within such period as may be specified in such notice.

(2) If any direction given under the provisions of subsection (1) is not complied with or any arrangement made under the provisions of that subsection has not been carried out-

- (a) the Minister may do or cause to be done all or any of the things required by the direction or arrangement to be done; and
- (b) if any property brought into the area concerned, by any person engaged or concerned in the operations authorised by the licence has not been removed in accordance with such direction or arrangement, the Minister may by notice in the Gazette direct that the owner or owners of that property shall remove it from that area or dispose of it to the satisfaction of the Minister, within the period specified in such notice and shall serve a copy of such notice on such person whom he believes to be an owner of that property or any part of that property.

(3) Where any direction given under the provisions of either of subsections (1) or (2) has not been complied with the Minister may do all or any of the following things:-

- (a) remove in such manner as he thinks fit, all or any of that property from that area concerned; and
- (b) dispose of, in such manner as he thinks fit, all or any of that property.

Royalty

71.-(1) The holder of an exploration licence shall be liable to pay to the Director royalty on all petroleum recovered from the licensed area at the rate of 10 per cent of the well-head value of such petroleum.

(2) The holder of a production licence shall be liable to pay to the Director royalty on all petroleum recovered from the licensed area-

(a) if the number of blocks included in the licensed area does not exceed the primary entitlement determined in accordance with the provisions of subsection (2) of section 25 at the rate of 10 per cent of the well-head value of such petroleum;

(b) if the number of blocks included in the licensed area exceed such primary entitlement, at the rate of 10 per cent of such well-head value together with an additional 0.5 per cent of such well-head value for each block in excess of such primary entitlement included in the licensed area so that however the maximum number of blocks included in the licensed area in excess of such primary entitlement does not exceed five and the maximum rate of royalty payable by the holder of such licence does not exceed 12.5 per cent of the well-head value of all petroleum recovered from the licensed area.

(3) For the purposes of subsections (1) and (2) royalty shall not be payable in respect of any petroleum that-

(a) the Minister is satisfied was unavoidably lost before the quantity of petroleum was ascertained;

(b) is used by the holder of the production licence, with the approval of the Minister for the purpose of petroleum exploration operations, or operations for the recovery of petroleum;

(c) with the approval of the Minister is flared or vented in connection with operations for the recovery of petroleum; or

(d) is with the approval of the Minister, returned to a natural reservoir.

(4) Unless otherwise agreed between the holder of the licence and the Minister all royalties payable under the provisions of this section shall be payable on or before the last day of each month in respect of all petroleum recovered during the month preceding that month.

PART VIII-RECORDS AND ACCOUNTS

Discovery and use of water

72. Where potable water is discovered in a licensed area the licence holder shall within a period of one month after the date of the discovery, furnish to the Director, in writing, particulars of the discovery.

Survey of wells, etc.

73.-(1) The Minister may at any time, by direction in writing, served on the holder of any licence, direct such holder-

(a) to carry out a survey of the position of any well, pipeline, water line, pumping station, tank station, valve station, secondary line, structure or equipment specified in such notice; and

(b) to furnish him with a report in writing of such survey.

(2) If the Minister is not satisfied with any survey or any report carried out or furnished under the provisions of subsection (1), he may by further direction in writing, served on such holder,

direct him to carry out such further survey or to furnish such further information in connection with such surveys as may specified in such further direction.

Records to be kept

74.-(1) Every holder of an exploration licence or production licence shall keep, in such form as may be approved by the Minister, full and accurate record containing the following particulars:-

- (a) the drilling, deepening, plugging or abandonment of all boreholes and wells;
- (b) the strata and subsoil through which all boreholes and wells are drilled;
- (c) the casing inserted in all boreholes and wells and any alterations to such casing;
- (d) any petroleum, water and other economic minerals encountered;
- (e) the areas in which any geological or geophysical work has been carried out;
- (f) such other matters as the Minister or the Director may from time to time require.

(2) Every holder of an exploration licence or a production licence shall keep accurate geological maps and plans and geophysical records and interpretations relating to the licensed area the subject of such licence and also all geological and geophysical reports made by or for such holder.

(3) The holder of the licence shall keep all the records, maps, plans and interpretations referred to in subsections (1) and (2) and shall permit the Director, any inspector or any of their authorised representatives to make inspection thereof and, when so required by the Director by direction in writing, served on such holder, shall deliver copies thereof to him.

Records to be supplied

75. Every holder of an exploration licence or a production licence shall supply to the Director-

- (a) within one month after the end of each quarter-year period-
 - (i) a summary of all geological and geophysical work carried out;
 - (ii) a list of maps, reports and other geological and geophysical data prepared by or for such holder;
 - (iii) notification of future exploration plans;
- (b) after the grant of a production licence, within two months after 1 January and 1 July in each year, estimates of crude oil and natural gas production and exports for each of the four half-year periods immediately following the said date;
- (c) after the grant of a production licence, within four months after the end of each calendar year-
 - (i) estimates of economically recoverable reserves of crude oil and natural gas at the end of that year;
 - (ii) a record, in a form approved by the Director, describing the results of all exploration, development and other works carried out during that year by such holder in connection with searching for, boring for and obtaining petroleum;
- (d) within six months of completion of drilling, summaries of exploration wells including lithological groups, letter classification boundaries and hydrocarbon zones:

Provided that such information as cannot reasonably be obtained within such period of six months shall be supplied as soon as it becomes available;

(e) from time to time, such other plans and information as to the progress and results of such holder's operations as the Director may by direction in writing, served on such holder, require;

(f) on relinquishment of any part of any licensed area, such maps, plans, reports, records, interpretation, data and drill cores, made or obtained by or for such holder relating to exploration, development, production and any operation in the relinquished area as the Director may by direction in writing, served on such holder, require.

Records, etc., to be confidential

76. All maps, plans, reports, records, interpretations and data which the holder of a licence is or may be required to give or supply or to permit inspection under the provisions of this Act shall be given or supplied at the expense of such holder and shall be treated as confidential at all times whilst such licence remains in force:

Provided that the Minister, the Director or any officer of the Government duly authorised by the Minister in that behalf shall be entitled-

(a) at any time, to make use of any information received from such holder for the purpose of preparing and publishing aggregated returns and general reports on the extent of petroleum exploration and exploitation operations;

(b) at any time to make use of topographical survey information including submarine topography, for any purpose whatsoever;

(c) at any time, to make use of any information received from such holder for the purpose of any arbitration or litigation in relation to the area the subject of such licence;

(d) at any time, to make use of information regarding economic minerals other than petroleum;

(e) to publish summaries of exploration wells, including lithological groups, letter classification boundaries and hydrocarbon zones-

(i) in the case of discovery wells, not less than two years after completion of drilling;

(ii) in other cases at any time.

Samples of water, petroleum and strata

77.-(1) Every holder of an exploration licence or a production licence shall so far as reasonably practicable collect, label and preserve for reference for a period of one calendar year characteristic samples of the water encountered in any borehole or well and samples of any petroleum found in any licensed area and, for a period of two calendar years, characteristic samples of the strata found in any borehole or well and before disposing of any such samples shall give the Director not less than three months' notice in writing of the intention to dispose thereof.

(2) The Director, any inspector or any person authorised by them shall be given access to any sample referred to in subsection (1) and shall be entitled to require that representative specimens of any such samples be delivered to them and may retain any specimens so delivered.

Accounts to be kept by licence holders

78.-(1) Every holder of an exploration licence or a production licence under the provisions of this Act shall at all times during the continuance of such licence keep full and correct accounts in a form from time to time approved by the Minister, which accounts shall contain accurate entries of-

(a) the gross quantity of-

- (i) crude oil obtained from the licensed area;
- (ii) untreated natural gas obtained from the licensed area and separated and introduced into main gas pipeline networks;

(b) the method and results of tests made on the crude oil and natural gas;

(c) the quantity sold of-

- (i) crude oil;
- (ii) natural gas;
- (iii) casinghead petroleum spirit;
- (iv) each refined petroleum product, including liquefied petroleum gases, together with the names of the purchasers, the quantity purchased and the price paid by each purchaser;

(d) the quantity injected into the formation of-

- (i) crude oil;
- (ii) natural gas;
- (iii) casinghead petroleum spirit;
- (iv) each refined petroleum product, including liquefied petroleum gases;
- (v) water and other liquid or gases;

(e) the quantity consumed for drilling and other production operations (other than quantities reported under paragraph (d)) and consumed in pumping to field storage and refineries in Fiji of-

- (i) crude oil;
- (ii) natural gas;
- (iii) casinghead petroleum spirit;
- (iv) each refined petroleum product, including liquefied petroleum gases;

(f) the quantity of crude oil refined by him in Fiji and the quantity of each refined product, including liquefied petroleum gases, obtained from it;

(g) the quantity of natural gas treated by him in Fiji for the removal of casinghead petroleum spirit or other liquids and liquefied petroleum gases and the quantity of-

- (i) casinghead petroleum spirit;
- (ii) butane;
- (iii) propane;

(iv) other liquids or gases obtained from it;

(h) the quantity of natural gas flared;

(i) such further information as the Director may by direction, in writing, served on such holder, from time to time require.

(2) Within two calendar months after 1 January and 1 July in each year each holder of a licence under the provisions of this Act shall deliver to the Director, in a form from time to time approved by the Minister, a summary of the accounts referred to in subsection (1) for

each half-year period together with a statement of all royalties payable in respect of each such period.

Audit

79. The Minister may from time to time appoint an auditor, who shall not be a public officer, to audit, for the purposes of Government revenues and the provisions of this Act but not otherwise, the books and accounts of any holder of a licence and such holder shall produce to such auditor all such book, records, accounts and other documents and furnish all such information as the auditor may require for the purpose.

PART IX-ENTRY ONTO LANDS

Authority of Minister, etc., to enter land

80.-(1) The Minister, the Director or any person authorised by the Director that purpose shall at all times have the right-

- (a) to enter into and upon any licensed area and the seas over any part thereof in order to search for, dig for and take therefrom any substances, other than petroleum, therein or for all and every other purpose other than those the subject of the provisions of this Act;
- (b) to sink, build and use such pits, shafts, wells, levels, drains, water courses, tunnels, buildings, engines, machinery and other things whatsoever on, in or under such licensed area as the Minister considers necessary or desirable for the purposes specified in paragraph (a); and
- (c) to grant such rights, permits or licences over any licensed area as may be reasonably required by other persons for the purpose may be if laying, operating and maintaining pipes, cables, telephone and power lines and inter-communications:

Provided that such rights shall be exercised in such manner as does not unreasonably interfere with the rights of the holder of the licence.

(2) The Minister, the Director, any inspector or any other officer of the Government duly authorised in that behalf shall have the right-

- (a) to enter onto and upon any licensed area in order to construct and maintain on the licensed area such reservoirs, pumping stations, generating stations, radio transmitting and receiving apparatus, waterways, roads, railways, telegraph and telephone lines, pipelines or other things whatsoever as in the opinion of the Minister, the Director or such other officer of the Government are necessary or desirable for any purpose;
- (b) to obtain from and out of any licensed area such stone, earth and other minerals as may be necessary or required for the construction and maintenance of any thing authorised to be constructed and maintained under the provisions of paragraph (a);
- (c) at all times to draw water from any licensed area;
- (d) to go to and fro at all times on through any licensed area for all such purposes as may be required:

Provided always that such rights shall be exercised in such manner as does not unnecessarily interfere with the rights of the holder of the licence.

Authority of holder to enter land

81. The right on the part of the holder of any licence to enter and occupy any licensed area shall not include the right to enter or use any land-

- (a) within any Fijian village;
 - (b) used as a place of burial or set apart for any public purpose;
 - (c) within thirty metres of an inhabited house or building except with the consent in writing of the owner or occupier thereof;
 - (d) under crop or ploughed or otherwise cultivated and rendered fit for planting and habitually used for the planting of crops, except with the consent of the owner or occupier thereof;
 - (e) within the boundaries of any city or town, except with the consent of the owner of the surface rights;
 - (f) reserved for the purpose of any railway or public road or within fifteen metres of any such railway or public road, except with the consent of the owner thereof or, as the case may be, the Permanent Secretary for Works;
 - (g) any land within sixty metres of any spring in use as a source of water supply or any area notified as a catchment area for water supply purposes or any artificial reservoir, water works or water supply buildings except with the consent of the Commissioner for Water Supply;
 - (h) any reserved forest declared as such under the provisions of the Forest Act except with the consent of, and in accordance with such conditions as may be imposed by, the Minister.
- (Cap. 150.)

PART X-RESTRICTIONS

Restriction on rights

82.-(1) No rights granted under the provisions of this Act shall be exercised in such a way as to cause damage to any land not occupied by the holder of a licence under the provisions of this Act.

(2) Rights granted under the provisions of this Act may be exercised on the foreshore between mean high water mark and mean low water mark only when it is necessary to carry out effectually any operation authorised by any licence granted under the provisions of this Act and then only in such a way as not to cause any reasonably avoidable obstruction to the use of such foreshore for other purposes.

(3) Nothing in this Act shall confer any rights on the holder of a licence under the provisions of this Act over the sea over any licensed area other than such rights as may be necessary for the carrying out of any operations authorised by this Act and the obtaining of petroleum from the licensed area in a proper, efficient and safe manner.

Interference with other rights

83. Every person carrying on any operations in a designated area under the authority of any licence shall carry on those operations in such a manner as not to interfere with-

- (a) navigation;
- (b) fishing;
- (c) the conservation of the natural resources of the sea or seabed; or
- (d) any operations of another person lawfully carried on by way of exploration for, recovery of or conveyance of any mineral whether petroleum or not, or by way of construction or operation of a pipeline,

to a greater extent than is necessary for the reasonable exercise of the rights and performance of the duties of that first-mentioned person.

PART XI-LOCAL REFINING

Minister may require crude oil to be delivered to Fiji refinery

84. The holder of a licence under the provisions of this Act shall, if so required by the Minister by notice in writing, within three months from the date of service of such notice on such holder or such further time as the Minister may allow, supply to refineries in Fiji for local refining as much of his production of petroleum from all licences granted to him under the provisions of this Act as may be required by such refineries to a maximum of such proportion of the total demand for petroleum for refining in Fiji as the holder's production of petroleum in Fiji bears to the total production of petroleum in Fiji, such petroleum to be supplied at such price as may be mutually agreed upon between the holder and the operator of each refinery or in default of such agreement as may be reasonably determined by the Minister to be that at which such holder could otherwise sell such petroleum.

PART XII-MISCELLANEOUS

Statements as to opinions of Government officials prohibited

85. No statement shall be made by or with the consent of the holder of any licence claiming or suggesting whether expressly or by implication that any Minister or any public officer or any person or body acting on behalf of any Minister or any Department of the Government has or have formed or expressed any opinion that any lands within any licensed area are from their geological formation or otherwise likely to contain petroleum.

Prospectus to be submitted to Minister

86. No prospectus shall be issued by or on behalf of any company or of any shareholder, beneficial or of record, therein calling for public subscription of any equity or loan capital for any enterprise relating to any licensed area unless and until such prospectus or such portions

thereof as relate to such enterprise or such licensed area has been submitted to the Minister and if the Minister so requires such prospectus shall be circulated or advertised only with such reports or comments relating to such enterprise or such licensed area as the Minister may approve.

Notices

87. Any notice authorised or required by this Act to be given or served-

(a) by the Minister or by the Director shall be deemed to have been duly given or served on the holder of a licence under the provisions of this Act if signed by the Minister or the Director or by any person authorised in writing by either of them in that behalf and sent by pre-paid post to such holder at his address in Fiji as specified in such licence or in the case of a partnership at the address of its accredited agent registered under the provisions of section **12**; and

(b) by the holder of the licence shall be deemed to have been duly given or served if signed by such holder, if an individual, or if a partnership, by any of the partners, or, if a company, signed by a director or the secretary of such company or by any person or persons authorised in writing by the holder or such company on his or its behalf and sent by pre-paid post to the Minister,

and any such notice shall be deemed to have been given or served on the day on which it would be delivered in the ordinary course of post.

Arbitration

88. If any question or difference shall arise between the holder of a licence under this Act and the Minister or Director or their respective representatives or any of them touching or concerning their rights or obligations under this Act, such question or difference shall be referred for determination in accordance with the provisions of the Arbitration Act to a single arbitrator who shall be appointed by agreement between the parties to the question or difference and, in default of an agreed appointment, by the Supreme Court pursuant to the provisions of sub-section (2) of section **6** of that Act.

(Cap. 38.)

PART XIII-OFFENCES AND PENALTIES

Prohibition on petroleum exploration or recovery except under licence

89. Any person who within a designated area-

- (a) carries out any petroleum exploration operations; or
- (b) carries out any operations for the recovery of petroleum,

except under and in pursuance of a licence granted under the provisions of this Act, shall be guilty of an offence and liable to a fine not exceeding \$2,000 for each day on which the offence occurs.

Offence relating to pipelines, etc.

90.-(1) Any person who, within a designated area-

- (a) commences or continues the construction of, alters, re-constructs or operates a pipeline except under and in pursuance of a pipeline licence granted under the provisions of this Act; or
- (b) commences or continues the construction of, alters, re-constructs or operates, a water line, pumping station, tank station, valve station or secondary line except-
 - (i) under and in pursuance of a pipeline licence granted under the provision of this Act; or
 - (ii) with the consent in writing of the Minister and in accordance with the conditions, if any, specified in the instrument of consent,

shall be guilty of an offence and liable to a fine not exceeding \$2,000 for each day on which the offence occurs.

(2) It shall not be an offence under subsection (1)-

- (a) if, in an emergency in which there is a likelihood of loss or injury, or, for the purpose of maintaining a pipeline, water line, pumping station, tank station, valve station or secondary line in good order or repair, a person does any act to avoid the loss or injury or to maintain the pipeline, water line, pumping station, tank station, valve station or secondary line in good order and repair; and
 - (i) as soon as practicable notifies the Director of the act alone; and
 - (ii) complies with any directions given to him by the Minister, the Director or any inspector; or
- (b) if a person does an act in compliance with any direction given under any of the provisions of this Act.

(3) Where-

- (a) the construction of a pipeline, waterline, pumping station, tank station, valve station or secondary line is commenced, continued or completed in contravention of any of the provisions of this Act; or
- (b) a pipeline, water line, pumping station, tank station, valve station or secondary line is altered or reconstructed in contravention the provisions of this Act,

the Minister may, without prejudice to any prosecution that may be instituted in relation thereto, by notice in writing served on the appropriate person direct him-

- (i) to make such alterations to the pipeline, water line, pumping station, tank station, valve station or secondary line as are specified in such notice; or
- (ii) to move pipeline, water line, pumping station, tank station, valve station or secondary line to such other place as may be specified in such notice or to remove it from the designated area within such period as may be specified in such notice.

(4) For the purpose of subsection (3), the appropriate person shall be-

- (a) if the construction of the pipeline, water line, pumping station, tank station, valve station or secondary line has been completed-the owner thereof; or
- (b) if the construction of the pipeline, water line, pumping station, tank station, valve station or secondary line has not been completed-the person for whom it is being constructed.

(5) Where a person on whom there has been served a notice under the provisions of subsection (3) does not within the period specified in the notice, or such extended time, if any, as the Minister may allow, comply with the direction the Minister may cause the Director to do all or any of the things required by the direction to be done.

(6) The costs and expenses incurred by the Director under the provisions of subsection (5) shall be a debt due to the Crown by the person upon whom the notice was served and shall be recoverable in a court of competent jurisdiction.

Assaults, obstructions etc.

91. Any person who assaults or without reasonable excuse, obstructs or hinders the Minister, the Director or any inspector in the exercise of his powers of the performance of his duties under the provisions of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding \$500 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Failing to give information or giving false information, etc.

92. Any person who-

- (a) wilfully refuses or fails-

- (i) to give any information which is or may be required to be given under the provisions of this Act; or
 - (ii) to produce any books, plans, records, accounts or other documents which are or may be required to be produced under the provisions of this Act; or
- (b) wilfully or recklessly-
- (i) gives any such information; or
 - (ii) makes any statement; or
 - (iii) produces any book, plan, record, account or other document that is false or misleading in a material particular to the Director,

shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Refusal or failure to comply with directions

93.-(1) Any person who refuses or fails to comply with the requirements of any direction given to him by the Minister, the Director or any inspector under any of the provisions of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) It shall be a defence if a person charged with an offence under the provisions of subsection (1) proves that he took all reasonable steps to comply with the direction.

Misrepresentation and other fraudulent practices

94.-(1) Any person who falsely represents that he has obtained the grant of a licence under the provisions of this Act and thereby induces or attempts to induce any other person to invest capital in any company or syndicate connected therewith before he has obtained the grant of such licence shall be liable to forfeit any claim to the grant of such licence, and, if he already holds any licence under the provisions of this Act shall be liable to have such licence cancelled.

(2) Any person who, with intent to defraud, does any act for the purpose of misleading any person as to the nature, quality or quantity of petroleum naturally occurring at any place or who, with intent to defraud, mingles or causes to be mingled with any sample of petroleum or any substance whatsoever which will increase the value or in any way change the nature of such sample, shall be guilty of an offence and shall be liable to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

Obstruction of licence holder

95. Any person who wilfully interferes with or obstructs the holder of any licence, or his servants or agents in the exercise of any right, powers or liberty conferred by or under the provisions of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding \$500 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Failure to show true consideration for dealings

96. Any person being a party to any dealing in any licence or any interest therein who, with intent to defraud, executes such dealing if the dealing does not fully and truly set forth the true consideration therefor, shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or to imprisonment for a exceeding two years or to both such fine and imprisonment.

(Amended by 1979, s. 6.)

Failure to comply with proper work practices

97.-(1) Any person being a holder of any licence who fails to comply with any of the requirements of section **62** or section **63**, shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) It shall be a defence if a person charged with an offence under the provisions of subsection (1) proves that he took all reasonable steps to comply with the provisions of section **62** or **63**.

Contravention of section 83

98.-(1) Any person carrying on any operations in a designated area on the authority of any licence who carries out any of such operations in contravention of the provisions of section **83**, shall be guilty of an offence and shall be liable to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) It shall be a defence if a person charged with an offence unless the provisions of subsection (1) proves that he was acting under the authority o and in compliance with any consent obtained under the provisions of section **7** of the Continental Shelf Act.

(Cap. 149.)

General penalty

99. Any person who-

(a) disobeys any of the provisions of this Act by-

(i) wilfully doing any act which it forbids;

(ii) refusing or omitting to do any act which it requires to be done;

(b) refuses or wilfully omits to carry out any lawful instruction made, given or imposed by the Minister, the Director or any inspector under the authority of this Act,

shall be guilty of an offence and shall, where no specific penalty is provided, be liable to a fine not exceeding \$500 or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

PART XIV-REGULATIONS

Regulations

100.-(1) The Minister may make regulations prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) In particular and without limiting the generality of subsection (1), the regulations may make provision for securing, regulating, controlling or restricting all or any of the following matters:-

- (a) prescribing the forms to be used;
- (b) prescribing the fees to be paid;
- (c) prescribing the amounts of all sums required to be deposited or secured;
- (d) determining the priority to be given to applications for licences;
- (e) the payment of royalties;
- (f) the use of explosives;
- (g) the preservation of safety;
- (h) the prevention of pollution and the preservation of health;
- (i) the compilation of statistics;
- (j) the regulation, restriction and control of the disposal and export of petroleum;
- (k) the exploration for petroleum and the carrying on of operations, and the execution of works, for that purpose;
- (l) the recovery of petroleum and the carrying on of operations, and the execution of works, for that purpose;
- (m) conserving and preventing the waste of, the natural resources, whether petroleum or otherwise, within any designated area;
- (n) 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;
- (o) the construction, erection, maintenance, operation or use of installations or equipment;
- (p) the control of the flow and the prevention of the escape of petroleum or water;
- (q) the prevention of the escape of water or drilling fluid or a mixture of water or drilling fluid with petroleum or any other matter;
- (r) the prevention of damage to petroleum-bearing strata in an area, whether in a designated area or not, in respect of which a permit or licence is not in force;
- (s) the keeping separate of-
 - (i) each petroleum pool discovered in a licensed area; and
 - (ii) each source of water discovered in a licensed area;
- (t) the prevention of water or other matter from entering a petroleum pool through wells;
- (u) the prevention of the waste or escape of petroleum or water from a pipeline, water line, secondary line, pumping station, tank station or valve station;
- (v) the maintaining in good condition and repair of all structures, equipment and other property in any designated area used or intended to be used for or in connection with exploration for, or the exploitation of, petroleum in the designated area;
- (w) the removal from a designated area of structures, equipment and other property brought into the designated area for or in connection with exploration for, or the exploitation of,

petroleum that are not used or intended to be used in connection with exploration for, or the exploitation of, petroleum in the designated area; and
(x) generally prescribing all matters and things required by this Act to be prescribed or which may appear to the Minister to be expedient or necessary for the better carrying out of the provisions of this Act.

(3) The regulations may provide, in respect of an offence against the regulations, for the imposition of-

- (a) a fine not exceeding \$1,000;
- (b) a fine not exceeding that amount for each time the offence occurs;
- (c) imprisonment for a term not exceeding two years; or
- (d) both such fine and imprisonment.

(4) The Regulations may prescribe annual fees to be paid in respect of exploration licences, production licences and pipeline licences.

(Inserted by Act 17 of 1985, s. 5.)

PART XV-REPEAL AND SAVING

Repeal and saving

101. The Oil Mines Act is hereby repealed:

Provided that all exploration licences issued under the provisions of that Act shall be deemed to have been issued under and subject to the provisions of this Act and notwithstanding anything to the contrary in any such licence or any agreement entered into with the holder of any such licence shall be deemed to have been issued under the provisions of this Act.

Controlled by the Ministry of Lands, Energy and Mineral Resources