

LAWS OF GUYANA

**PETROLEUM (PRODUCTION) ACT
CHAPTER 65:05**

Act
41 of 1939
Amended by
19 of 1967
1 of 1972

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CHAPTER 65:05

PETROLEUM (PRODUCTION) ACT

ARRANGEMENT OF SECTIONS

SECTION

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1953 PA.
c. 199

An Act to vest in the State the property in petroleum and natural gas within Guyana and to make provision with respect to the search for and getting of petroleum and natural gas, and for purposes connected with the matters aforesaid.

41 of 1939

[18TH NOVEMBER, 1939]

1. This Act may be cited as the Petroleum (Production) Act. Short title.
2. (1) The property in petroleum existing in its natural condition in strata in Guyana is hereby vested in the State, and the State shall have the exclusive right of searching for and getting such petroleum. Vesting of property in petroleum in the State.

(2) For the purpose of this Act the expression "petroleum" includes any mineral oil or relative hydrocarbon and natural gas existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation.

(3) In this Act references to a person having the right to search for petroleum shall include the right to make a geological and geophysical examination of land and to bore the same, and references

to the getting of petroleum shall include references to the working, carrying away, storing, treating and converting of petroleum.

Licences to search for and get petroleum. [1 of 1972]

3. (1) The President may, on behalf of the State, grant to such persons as he shall think fit, licences to search for and get petroleum.

(2) Any such licence shall be granted for such consideration (whether by way of royalty or otherwise) as the President may determine, and upon such other terms and conditions as the President shall think fit.

(3) The Commissioner of Geological Surveys and Mines shall, as soon as may be after a licence has been granted under this section, cause a notice of the fact to be published in the *Gazette* stating the name of the licensee and the situation of the area in respect of which the licence has been granted.

Power to make regulations. [19 of 1967 1 of 1972]

4. (1) The Minister may, subject to negative resolution of the National Assembly, make regulations generally for the better carrying out of the provisions and subject as aforesaid shall, before granting any licence under this Act, make regulations prescribing—

(a) the manner in which, and the persons by whom, applications for licences under this Act may be made;

(b) the fees to be paid on any such application;

(c) the conditions as to the size and shape of areas in respect of which licences may be granted;

(d) model clauses which shall, unless the President thinks fit to modify or exclude them in any particular case, be incorporated in any such licence,

and different regulations may be made for different kinds of licences.

(2) The Minister shall prescribe the royalties to be paid on the products won in mining operations under this Act.

Power to grant ancillary rights for facilitating the search for and getting of petroleum.

5. (1) Where any facility, right or privilege is required in order that petroleum may be properly and conveniently searched for and got by any person to whom a licence under section 3 has been granted (hereinafter referred to as "the licensee") and the proper and efficient searching for and getting of the petroleum is unduly hampered by the inability or failure of the licensee to obtain such right, facility or privilege (hereinafter referred to as "an ancillary right"), such ancillary right may be conferred on the licensee in the manner and subject to the provisions hereinafter appearing.

(2) In particular, but without prejudice to the generality of subsection (1), such ancillary rights shall include—

(a) a right to enter upon land and to search for and get petroleum;

(b) a right to use and occupy land for the erection of such buildings, the laying and maintenance of such pipes, and the construction of such other works as may be required for the purpose of searching for and getting petroleum;

(c) a right to obtain a supply of water or other substances in connection with the search for or getting of petroleum;

(d) a right to dispose of water or other liquid matter obtained while searching for or getting petroleum.

(3) An ancillary right may be granted to a licensee either at the time a licence under section 3 is granted to him or at any subsequent time.

6. An ancillary right shall not be granted under this Act unless it is shown that it is not reasonably practicable to obtain the right in question by private arrangement for any of the following reasons—

Limitation on power of granting rights.

(a) that the persons with power to grant the right are numerous or have conflicting interests;

(b) that the persons with power to grant the right, or any of them, cannot be ascertained or cannot be found;

(c) that the persons from whom the right must be obtained, or any of them, have not the necessary powers of disposition, whether by reason of defect of title, legal disability or otherwise;

(d) that the person with power to grant the right unreasonably refuses to grant it or, after reasonable consideration has been offered, demands terms which, having regard to the circumstances, are unreasonable.

7. (1) For the purpose of determining any question relating to applications for ancillary rights under this Act, the Minister shall appoint a Commission consisting of three persons (hereinafter referred to as "the Commissioners") which shall have jurisdiction to inquire into and determine the same. When appointing Commissioners, the Minister shall have regard to the fact that one at least of the Commissioners shall have knowledge and experience of land conditions in Guyana. If at any time any Commissioner is for any reason unable to perform the duties of his office, the Minister may appoint another person to serve in his place and such temporary appointment may be either for a fixed period or for an indefinite period.

Power to appoint Commissioners. [1 of 1972]

(2) One of the persons appointed shall be a judge of the High

Court and he shall be chairman of the Commission.

(3) Each Commissioner shall be appointed for a period of five years.

c.19:03 (4) The provisions of sections 5, 6, 9, 10, 11, 12, 13, 14 and 16 of the Commissions of Enquiry Act shall, *mutatis mutandis*, apply to the conduct of any proceedings before the Commissioners.

(5) No Commissioner shall take any part, save as an interested party appearing before the Commission, in the proceedings of the Commission in any application in which he has any direct or indirect personal interest.

(6) There may be paid to any Commissioner, from moneys provided by Parliament such remuneration as the Minister shall determine.

Applications
for rights.
{1 of 1972}

8. (1) Any applicant for a licence, or any licensee, who is desirous of obtaining an ancillary right and who considers that the circumstances are such that such an ancillary right can be granted may send to the Commissioner of Geological Surveys and Mines an application for the grant of such a right. Such application shall be made in duplicate.

(2) An application under this section shall set forth the circumstances alleged to justify the grant of the right, and shall be in such form, and accompanied by such information verified in such manner, as the Commissioner of Geological Surveys and Mines may direct.

(3) The Commissioner of Geological Surveys and Mines shall consider the application and, if it appears to be in order, he shall—

(a) file one copy in his office;

(b) transmit the other copy to the chairman of the Commission; and

(c) cause to be published in the *Gazette* and in one local daily newspaper a notice stating the name of the applicant, the nature of the right claimed and a sufficient description of the area in which it is desired to exercise the right.

Consideration
of applications
by
Commissioners

9. (1) The Commissioners, if satisfied that the requirements of this Act have been complied with in the case of the applicant and that it is expedient in the interest of Guyana that the right applied for should be granted to him, may, by order, grant the right on such terms and subject to such conditions, and for such period as the Commissioners may think fit, and upon such an order being made the right specified in the order shall, subject to the provisions

hereinafter contained, vest in the applicant.

(2) In determining whether to grant any right for which application has been made or what terms and conditions, if any, shall be imposed upon the grant of such a right, the Commissioners shall have regard, among other considerations, to the effect on the amenities of the locality of the proposed use and occupation of the land in respect of which the application is made.

10. (1) Where an application for the grant of a right is granted the Commissioners shall, in default of agreement, determine the amount of compensation that shall be paid by the applicant in respect of the acquisition of the right and the person or persons to whom it is to be paid, either at the time when the application is granted or at any subsequent time, and the proportions thereof, being proportions which are adequate, to be so paid to any such persons, respectively.

Provisions
as to com-
pensation.
[19 of 1967]

(2) The compensation to be paid in respect of any right shall be assessed by the Commissioners on the basis of what would be fair and reasonable between a willing grantor and a willing grantee, having regard to the conditions subject to which the right is or is to be granted, and after that amount is assessed the Commissioners shall make a sufficient additional allowance of not less than twenty-five per cent on account of the acquisition of the right being compulsory.

(3) The Commissioners may impose as a condition on the grant of any right that any compensation payable in respect thereof shall be paid or, with the consent of the person to whom payment is to be made, that security to the satisfaction of the Commissioners for the payment thereof shall be given before the right is commenced to be exercised.

(4) Where the person to whom any compensation is payable cannot be found or ascertained the compensation shall be paid into the registry of the Supreme Court.

11. The costs incurred by the applicant in connection with the application shall not be ordered to be paid by any person from whom a right is sought to be obtained; and the costs so incurred by each such person shall, unless the Commissioners are satisfied that an unconditional offer in writing was made by the applicant to that person of a sum as compensation equal to or greater than the amount of any compensation awarded to him by the Commissioners, be ordered to be paid by the applicant.

Costs of
application.

12. An ancillary right granted under this Act shall not confer on the person to whom it is granted any greater or other power than if

Effect of
grant of
right.

the right had been granted by a person with power to grant the right or relieve the grantee from any obligation or liability to which he would have been subject had the right been granted by such a person.

Appeals to
the Full
Court.

13. (1) An appeal in respect of any amount on any question of law or of fact shall lie from any order made by the Commissioners to the Full Court of the High Court.

c. 3:02

(2) The provisions of Order 46 of the Rules of the High Court, shall, *mutatis mutandis*, be applicable to all such appeals.

(3) The decision of the Full Court shall be final.

Oil mining
leases.
(19 of 1967)

14. The provisions of sections 3 to 12 (inclusive) and section 13 (1) and (2) shall, *mutatis mutandis*, apply in relation to leases for the purpose of searching for and getting petroleum thereby demised as those provisions apply in relation to licences to search for and get petroleum, subject to the following modifications, that is to say—

(a) the substitution, for the word "may" in section 10(3), of the word "shall";

(b) the substitution, for the words "is commenced to be exercised" in the said subsection, of the words "vests in the applicant".

Savings.

15. (1) Nothing in this Act shall be construed as conferring, or as enabling the Commissioners to confer, on any person, whether acting on behalf of the State or not, any right which he does not enjoy apart from this Act to enter on or interfere with land.

(2) Nothing in this Act shall be construed as imposing any liability on any person where in the course of mining or other lawful operations petroleum is set free.