

GOVERNMENT OF ZAMBIA

**THE PETROLEUM (EXPLORATION AND  
PRODUCTION) ACT, 1985**

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

*Section*

1. Short title
2. Interpretation
3. Title to petroleum

PART II

PETROLEUM COMMITTEE

4. Establishment of Committee and functions
5. Composition of Committee
6. Tenure of office
7. Vacancies
8. Proceedings of Committee
9. Secretary
10. Disclosure of interest
11. Immunity of members

PART III

ADMINISTRATION

12. Administration of Act
13. Delegation of Minister's powers
14. Petroleum register
15. Inspection of register
16. Information of contracts to be submitted to Provincial Councils

*Single copies of this Act may be obtained from the Government Printer,  
P.O. Box 30136, Lusaka. Price K1.00n.*

PART IV

GRANT OF RIGHTS TO CONDUCT PETROLEUM OPERATIONS

*Section.*

17. Right to conduct petroleum operations
18. Authority to contract
19. State participation
20. Qualifications to contract
21. Prohibitions
22. Bids
23. Blocks

PART V

TYPE AND NATURE OF CONTRACTS

24. Conditions of contract
25. Contents of contract
26. Obligations of contractor
27. Term of contract
28. Relinquishment
29. Transfers and assignments
30. Termination
31. Duty to indemnify
32. Conservation and work practices

PART VI

AREAS OF OPERATION AND SURFACE RIGHTS

33. Areas closed to petroleum operations
34. Restricted areas
35. Surface rights and compensation
36. Other minerals

PART VII

GOVERNMENT REVENUES

*Section*

- 37. Income Tax
- 38. Employee taxation
- 39. Royalty or production payment
- 40. Surface rentals
- 41. Other fees, charges and levies
- 42. Exemptions

PART VIII

GENERAL PROVISIONS

- 43. Immunity of public officers
- 44. Prohibition of publication or disclosure of information to unauthorised persons
- 45. Disputes between State and contractor
- 46. Disputes between contractor and others
- 47. Revocation
- 48. Effect of revocation
- 49. Penalty
- 50. Regulations
- 51. Non-application of the Mines and Minerals Act

GOVERNMENT OF ZAMBIA

# ACT

No. 13 of 1985

Date of Assent: 2nd April, 1985

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

[12th April, 1985]

ENACTED by the Parliament of Zambia.

Enactment

## PART I

### PRELIMINARY

1. This Act may be cited as the Petroleum (Exploration and Production) Act, 1985. Short title
2. In this Act, unless the context otherwise requires— Interpretation
  - “Chairman” means the person designated Chairman of the Committee by section *five*;
  - “Commercial discovery” means a discovery of petroleum which can be exploited commercially in accordance with accepted practices in the international petroleum industry;
  - “Committee” means the Petroleum Committee established by section *four*;
  - “Contract” means any agreement between the State and a contractor entered into pursuant to this Act for the conduct of petroleum operations in the Republic;
  - “Contractor” means any person with whom the State enters into a contract; and includes his agents, representatives and assignees;

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

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

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

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

“Member” means a member of the Committee;

“Minerals” shall have the meaning assigned thereto in the Mines and Minerals Act; but shall not include petroleum;

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

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

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

(i) beyond the point of export; or

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

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

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

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

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

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

## PART II

### PETROLEUM COMMITTEE

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

Establish-  
ment of  
Committee  
and  
functions

5. The Committee shall consist of the following members:

Composition  
of  
Committee

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

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

Tenure of  
office

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

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

Vacancies

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

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

Proceedings  
of  
Committee

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

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

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

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

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

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

(a) the Chairman; or

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

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

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

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

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

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

Secretary

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

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

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

Disclosure  
of interest

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

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

Immunity  
of members

### PART III

#### ADMINISTRATION

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

Adminis-  
tration of  
Act

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

Delegation  
of  
Minister's  
powers

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

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

Petroleum  
register

- (a) in respect of each contract entered into, the names of all persons with whom the contract is made, the names of any assignee of any rights under such contract and a brief description of the duration of the exploration period, and of the contract area for such contract;
- (b) copies of all instruments of approval of contracts entered into pursuant to subsection (1) of section *eighteen* of this Act;
- (c) the contractor's office address in the Republic and the name of its resident representative along with a copy of the powers of attorney establishing such representative's authority to act on behalf of the contractor;
- (d) instruments evidencing the termination, revocation, or expiration of contracts;

- (e) a map of the Republic illustrating those areas currently under contract and those which remain available for award in accordance with this Act;
- (f) instruments evidencing—
  - (i) the nature and extent of any areas relinquished or surrendered by a contractor;
  - (ii) the establishment of a commercial discovery of petroleum, the date of declaration thereof, the delimitation of the areas involved and the duration of the development and production period; and
  - (iii) the grant of extensions to the exploration period pursuant to the terms of the contract, and
- (g) such other information as the Minister may determine.

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

Inspection  
of  
register

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

Information  
of  
contracts  
to be  
submitted  
to  
Provincial  
Councils

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

## PART IV

### GRANT OF RIGHTS TO CONDUCT PETROLEUM OPERATIONS

Right to  
conduct  
petroleum  
operations

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

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

Authorit,  
to  
contract

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

Provided that—

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

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

State  
partici-  
pation

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

Qualifi-  
cations  
to  
contract

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

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

Prohibitions

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

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

Bids

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

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

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

Blocks

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

## PART V

### TYPE AND NATURE OF CONTRACTS

Conditions  
of  
contract

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

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

Provided that—

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

Contents  
of  
contract

25. Each contract shall include the following:

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

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

Obligations  
of  
contractor

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

(k) to supply to the State out of any petroleum to which he is entitled pursuant to the contract such quantity of petroleum as may be required to meet the requirements of the Republic for internal consumption:

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

Term of contract

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

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

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

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

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

Relinquishment

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

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

Transfers and assignments

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

Termination

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

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

Duty to indemnify

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

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

Conservation  
and  
work  
practices

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

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

## PART VI

### [AREAS OF OPERATION AND SURFACE RIGHTS

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

Areas closed  
to  
petroleum  
operations

Provided that—

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

Restricted  
areas

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

- (a) upon any land dedicated as a place of burial;
- (b) upon any land containing any ancient monument or national monument, as defined in the Natural and Historical Monuments and Relics Act;
- (c) upon any land which is the site of or is within one hundred metres of any building or dam owned by the Republic;
- (d) upon any land forming part of a Government aerodrome as defined in the Air Navigation Regulations;
- (e) upon any land occupied as a village; or
- (f) upon any land forming part of a defence establishment.

Cap. 266

Cap. 740,  
p. 18

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

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

Cap. 312

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

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

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

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

- (d) declared to be a National Forest or a Local Forest,

as defined in the Forests Act without complying with the provisions of sections *sixteen* and *twenty-four* of that Act; Cap. 311

(e) in a National Park, without complying with section *thirty* of the National Parks and Wildlife Act. Cap. 316

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

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

(a) within the contract area erect temporary or permanent houses, buildings, engines, machinery, plant and other works, and acquire in the prescribed manner such rights of way, easements and other rights of access as may be necessary for the proper execution of petroleum operations;

(b) take and use water for domestic use and for the purposes of petroleum operations in accordance with the provisions of the Water Act; Cap. 312

(c) subject to the provisions of the Roads and Road Traffic Act and the Aviation Act, construct, maintain and operate all such airfields, roads, bridges, communication systems and conveniences as may be necessary; Cap. 766  
Cap. 740

(d) subject to the provisions of the Water Act, lay water pipes and make water courses and ponds, dams and reservoirs, lay drains and sewers and construct and maintain sewage disposal plants; Cap. 312

(e) subject to the prior approval of the Minister—

(i) construct, reconstruct, alter and operate pipelines, pumping stations and other necessary facilities incidental thereto; and

(ii) operate and maintain at any place within the Republic such other facilities and works as may be necessary for carrying out petroleum operations.

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

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

Cap. 289

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

Cap. 296

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

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

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

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

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

the Minister who shall deal with the same as if the matter had arisen under the provisions of the Mines and Minerals Act. Cap. 329

36. (1) Without prejudice to the provisions of subsection (1) of section *twent-four* the State shall have the right to grant to persons, other than a contractor, licences pursuant to the Mines and Minerals Act and the Prescribed Minerals and Materials Commission Act for the prospecting and exploration for, and mining of, substances other than petroleum within the contract area. In such event, the contractor shall afford safe passage for the licensee to that portion of the contract area in which such licensee proposes to carry out its operations: Other minerals  
Cap. 329  
Cap. 332

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

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

## PART VII

### GOVERNMENT REVENUES

37. A contractor, his contractors and subcontractors shall be liable for the payment of income tax in accordance with the Income Tax Act with respect to income deriving from petroleum operations. Income tax  
Cap. 668

38. (1) The income of individuals who are employed by contractors, their contractors and subcontractors, or who hire their services out to such organisations, shall be subject to payment of income tax in accordance with the Income Tax Act. Employee taxation  
Cap. 668

(2) A contractor, his contractors and subcontractors may be liable to selective employment tax in accordance with the Selective Employment Tax Act. Cap. 668

(3) A contractor, his contractors and subcontractors shall be obliged to withhold and pay to the State any income tax assessed on the taxable income of such individuals in accordance with and as required by the Income Tax Act. Cap. 668

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

(2) The Minister may require a contractor to pay to the State a royalty or production payment based on the gross value or volume, as the case may be, of natural gas produced,

saved and sold from the contract area after deducting the amount of natural gas used and consumed in the conduct of petroleum operations.

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

Surface rentals

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

Other fees, charges and levies

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

Exemptions

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

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

- (a) any tax or customs duties payable on the importation and subsequent exportation of machinery, equipment, materials and other items required for petroleum operations;
- (b) any tax or customs duties payable on the importation and subsequent exportation of reasonable quantities of household goods and personal effects by non-Zambian employees of such contractor, his contractors and subcontractors; and
- (c) such other taxes, imposts, levies and duties imposed within the Republic, except for income tax as provided for in section *thirty-seven*.

## PART VIII

### GENERAL PROVISIONS

Immunity of public officers

43. The provisions of section *eleven* shall apply *mutatis mutandis* to any public officer.

Prohibition of publication or disclosure of information to unauthorised persons

44. (1) No person shall, without the consent in writing given by or on behalf of the Minister, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act.

(2) No person having information which to his knowledge has been published or disclosed in contravention of subsection (1) shall publish or communicate any such information to any other person.

45. Contracts may provide for arbitration of disputes arising thereunder between the State and the contractor in accordance with rules issued and administered by recognised international bodies.

Disputes  
between  
State and  
contractor

46. If any dispute, controversy or difference arises between two or more contractors or between a contractor and any person holding mining rights pursuant to the Mines and Minerals Act or the Prescribed Minerals and Materials Commission Act or between a contractor and any other person, the parties to such dispute, controversy or difference may jointly or individually apply to the Minister to investigate and resolve the same pursuant to and in accordance with the provisions of Part XIII of the Mines and Minerals Act.

Disputes  
between  
contractor  
and others.  
Cap. 329  
Cap. 322

47. (1) Where any contract is entered into and it is subsequently found that such contract was entered into as a result of any false or fraudulent representation or in consequence of any incorrect information, the Minister may give written notice to the contractor requiring him to show cause within a specified time why such contract should not be revoked.

Cap. 329

Revocation

(2) Where any contractor is in breach of any provision of this Act, the Minister may give written notice to the contractor requiring him to show cause within a specified time why his contract should not be revoked.

(3) If the contractor fails to comply with a notice given pursuant to subsection (1) or (2) within the time specified or if the cause shown be deemed inadequate, such contract may thereupon be revoked by the Minister, with the approval of the Committee.

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

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

Effect of  
revocation

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

**Penalty**

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

**Regulations**

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

**Non-application of the Mines and Minerals Act.  
Cap 329**

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